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TITLE I

GENERAL PROVISIONS

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1.01	Code Adoption and Application

CHAPTER 1.01

CODE ADOPTION AND APPLICATION

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1.01.001	Code Adoption
1.01.003	Code Revisions
1.01.010	Title, Citation, Reference
1.01.020	Reference Applies to Amendments
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1.01.110	Violations - Penalty
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1.01.001 Code Adoption

The "Code of the Metropolitan Service District" dated July 1983 is hereby adopted.

(Ordinance No. 83-157, Sec. 1.)

1.01.003 Code Revisions

The Code may be revised and republished by the Chief Operating Officer from time to time as necessary but not less often than annually. Such revisions shall include subsequently adopted general ordinances appropriate for codification pursuant to generally accepted standards for the codification of ordinances of Oregon municipal corporations.

(Ordinance No. 83-157, Sec. 2. Amended by Ordinance No. 02-958A, Sec. 1.)

1.01.010 Title, Citation, Reference

This Code shall be known as the "Code of the Metropolitan Service District," and it shall be sufficient to refer to this Code as the "Code of the Metropolitan Service District" in any prosecution for the violation of any provisions thereof or in any proceeding at law or equity. It shall also be sufficient to designate any ordinance adding to, amending, correcting or

repealing all or any part or portion thereof as an addition to, amendment to, correction of, or repeal of the "Code of the Metropolitan Service District." Further reference may be had to the titles, chapters, sections and subsections of the "Code of the Metropolitan Service District," and such reference shall apply to that numbered title, chapter, section or subsection as it appears in this Code.

(Ordinance No. 83-157, Sec. 3.)

1.01.020 Reference Applies to Amendments

Whenever a reference is made to this Code as the "Code of the Metropolitan Service District" or to any portion thereof, or to any ordinance of the Metropolitan Service District, the reference shall apply to all amendments, corrections and additions thereto.

(Ordinance No. 83-157, Sec. 4.)

1.01.030 Codification Authority

This Code consists of all the general, regulatory and penal ordinances of the Metropolitan Service District as they exist on the date of this ordinance and as they may be adopted from time to time.

(Ordinance No. 83-157, Sec. 5.)

1.01.040 Definitions

The following words and phrases whenever used in this Code shall be construed as defined in this section unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(a) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of this Code.

(b) "Council" means the council of the Metropolitan Service District of the Portland metropolitan area.

(c) "Council President" means the person holding the office of Council President established by Section 16(4) of the Metro Charter.

(d) "District" means "Metro" and the "Metro Area."

(e) "Metro" means the Metropolitan Service District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter.

(f) "Metro Charter" means the voter-approved home-rule charter in 1992 as amended.

(g) "Metro Area" means all territory within the jurisdictional boundary of Metro as provided by law.

(h) "Person" means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, city, county, special district or local governmental unit and any other legal entity.

(i) "State" means the State of Oregon.

(Ordinance No. 83-157, Sec. 6. Amended by Ordinance No. 02-958A, Sec. 1.)

1.01.050 Grammatical Interpretation

The following grammatical rules shall apply in this Code:

(a) Gender. Any gender includes the other gender.

(b) Singular and Plural. The singular number includes the plural and the plural includes the singular.

(c) Tenses. Words used in one tense include any other tense as the context may require.

(d) Use of Words and Phrases. Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

(Ordinance No. 83-157, Sec. 7.)

1.01.060 Construction

The provisions of this Code and all proceedings under it are to be construed with a view to effect its objectives and to promote justice.

(Ordinance No. 83-157, Sec. 8.)

1.01.070 Title, Chapter, Section Headings

Title, chapter and section headings contained herein shall not be deemed to govern, omit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(Ordinance No. 83-157, Sec. 9.)

1.01.080 Effect of Code on Past Actions and Obligations

Neither the adoption of this Code or the repeal or amendment hereby of any other code, ordinance or part or portion of any ordinance shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty due and unpaid at said effective date under such Code or ordinances, nor be construed as affecting any of the provisions of such Code or ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. When a requirement or obligation under a prior Code or ordinance superseded by this Code is continued by this Code in substantially similar terms, the requirement or obligation and any time limit fixed by the prior Code or ordinance, or by official act or notice thereunder shall continue, and time shall be computed, in accordance with the terms of the prior ordinance, act or notice.

(Ordinance No. 83-157, Sec. 10.)

1.01.090 Repeal Shall Not Revive Any Ordinances

The repeal of an ordinance shall not affect the repealing clause of such ordinance or revive any ordinance which has been repealed.

(Ordinance No. 83-157, Sec. 11.)

1.01.100 Effective Date

This Code shall be effective upon the date of adoption.

(Ordinance No. 83-157, Sec. 12.)

1.01.110 Violations - Penalty

(a) It is unlawful for any person to violate any provision or to fail to comply with any requirement of this Code. Any person violating any provision or failing to comply with any requirement of this Code, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine of not more than $500, or by imprisonment for a period of not more than 30 days in a county jail, or by both such fine and imprisonment. In addition, property shall be forfeited and permits or licenses may be suspended or revoked as provided in this Code.

(b) Any act or omission made unlawful under this Code shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing such act or omission.

(Ordinance No. 83-157, Sec. 13.)

1.01.120 Severability

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

(Ordinance No. 83-157, Sec. 14.)

1.01.130 Repealer

Ordinance No. 30 is hereby repealed and the Code adopted thereby is hereby superseded by the Code adopted herein.

(Ordinance No. 83-157, Sec. 15.)

TITLE II

ADMINISTRATION AND PROCEDURES

CHAPTERS	TITLE
2.01	Council Organization and Procedures
2.02	Personnel Code***
2.03	Civil Penalties
2.04	Metro Contract Policies*
2.05	Procedure for Contested Cases
2.06	Investment Policy (moved to Chap. 7.03, Ord. 02-976 §1)
2.07	One Percent for Art Program
2.08	Office of Metro Attorney**
2.09	Contractor's Business License Program
2.10	Voters' Pamphlet (repealed Ord. 93-517B §2)
2.11	Government Relations (repealed Ord. 01-967 §1)
2.12	Office of Citizen Involvement
2.13	Tax Study Committee (repealed Ord. 00-860A §2)
2.14	Facility-Related Parking Policy and Regulations
2.15	Metro Auditor
2.16	Naming of Facilities
2.17	Code of Ethics for Metro Officials and Requirements for Lobbyists
2.18	Campaign Finance Regulation
2.19	Metro Advisory Committees
2.20	Chief Operating Officer
2.21	Claims Under ORS 197.352 (Ballot Measure 49)****

* Formerly "Metro Contract Procedures"; renamed by Ordinance No. 96-635B, Sec. 2.

** Formerly "Office of General Counsel"; renamed by Ordinance No. 02-953A, Sec. 1.

*** Formerly "Personnel Rules"; renamed by Ordinance No. 05-1082, Sec. 1.

**** Formerly "Claims Under ORS 197.352 (Ballot Measure 37)" replaced by Ordinance No. 07-1168, Sec. 1.

CHAPTER 2.01

COUNCIL ORGANIZATION AND PROCEDURES

SECTIONS	TITLE
2.01.001	Definitions
2.01.010	Officers
2.01.020	Council Meetings and Records
2.01.030	Regular Meetings
2.01.035	Work Sessions
2.01.040	Special Meetings
2.01.050	Emergency Meetings
2.01.055	Participation of Council Members by Electronic Means
2.01.060	Notice and Agenda
2.01.070	Ordinances
2.01.080	Resolutions
2.01.090	Conduct of Meetings
2.01.100	Adoption and Amendment of Rules
2.01.110	Reconsideration
2.01.120	Communications from the Public
2.01.130	Order of Business
2.01.140	Standing Committees of the Council
2.01.160	Advisory Committees (repealed Ord. 00-860A §2)
2.01.170	Salary and Expenditure Reimbursement Guidelines
2.01.180	Procedures for Appointing a Person to Fill a Vacancy on the Metro Council (repealed Ord. 93-517B §2)
2.01.200	Annual Budget (repealed Ord. 07-1164A §2)

2.01.001 Definitions

For the purpose of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

(a) "Adoption" means the act of the council to approve a motion to adopt an ordinance or resolution.

(b) "Quorum" means the majority of the members of the council holding office.

(Ordinance No. 88-241, Sec. 1. Amended by Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1; and Ordinance No. 11-1251, Sec. 1.)

2.01.010 Officers

(a) Council President. The Council President is elected by the voters of the region as provided for in the Charter. The

Council President has the power and duties described in the Charter.

(b) The Council shall, at its first meeting after the first Monday in January of each year, elect one Councilor to serve as its Deputy for the ensuing year. The affirmative vote of the majority of the Council is required to elect the Deputy. The Council may also adopt a resolution establishing such committees as the Council deems necessary for the orderly conduct of Council business. Committee members and committee chairs shall be appointed by the Council President subject to confirmation by the Council by resolution.

(c) The Council President will preside at all meetings of the Council and will preserve order and decorum. The Council President is authorized to sign all documents memorializing Council's action on behalf of the Council. The Council President will have a vote on each matter before the Council, but will not make motions unless first relinquishing the position of Council President for the purpose of making such motion.

(d) The Deputy shall be the acting Council President in the temporary absence or incapacity of the Council President, and will have the authority and perform the duties of the Council President but shall not receive the salary of the Council President. In the event a vacancy exists in the office of the Council President, the Deputy shall serve as the Acting Council President until a new Council President is elected or appointed pursuant to Metro Code Chapter 9.01. The Acting Council President shall not receive the salary of the Council President.

(e) In the absence or incapacity of the Council President and the Deputy, the Council President may designate a Councilor to act as the Temporary Council President.

(Ordinance No. 79-65, Sec. 1. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-954A, Sec. 1; and Ordinance No. 07-1164A, Sec. 1.)

2.01.020 Council Meetings and Records

A qualified staff person designated by the Chief Operating Officer, shall be present at each meeting of the council and shall provide that the proceedings be recorded as specified in section 2.01.090(b). Sound recordings shall be made of each meeting. Equipment malfunction shall not be a reason to

postpone the meeting and shall not negate the minutes. The recorder may temporarily interrupt council proceedings in the event of equipment malfunction, changes of tapes or other cause of short-term loss of recording. The Chief Operating Officer shall also maintain a journal of council proceedings that shall be available to the public during regular office hours.

(Ordinance No. 79-65, Sec. 2. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1; and Ordinance No. 11-1251, Sec. 1.)

2.01.030 Regular Meetings

The council shall meet regularly on the dates and times established by a resolution adopted by the council. Regular meetings shall be held at a place designated in the published agenda of the meeting. Regular meetings may be adjourned to a specific time and place before the day of the next regular meeting. Published notice of the time and place of an adjourned meeting is not required. Matters included on the agenda of a regular meeting that is adjourned to a later date need not be republished. New matters to be considered at the adjourned meeting shall be published in the same manner as the agenda for a regular meeting.

(Ordinance No. 79-65, Sec. 3. Amended by Ordinance No. 80-87, Sec. 1; Ordinance No. 84-176, Sec. 1; and Ordinance No. 95-583B, Sec. 1.)

2.01.035 Work Sessions

The council may conduct work sessions for the purpose of receiving briefings from staff and other invited persons and for discussing issues of interest to the council. Public hearings may be held at work sessions, but are not required. Rules governing work sessions shall be prescribed by resolution.

(Ordinance No. 95-583B, Sec. 1.)

2.01.040 Special Meetings

The Council President or a majority of the members of the council may call a special meeting of the council provided that at least 24 hours notice is given to the council and the general public. Except for the provisions of this section, special meetings are subject to the same rules as regular meetings. If possible, the agenda and time and place of the meeting should be published in a newspaper of general circulation in the district. If publication is not possible, the provisions for notifying the public of emergency meetings should be followed.

(Ordinance No. 79-65, Sec. 4. Amended by Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1.)

2.01.050 Emergency Meetings

In case of an actual emergency, the Council President or a majority of the members of the council may call an emergency meeting of the council upon such notice as is appropriate to the circumstances. The agenda shall be limited to the purposes for which the meeting is called. To the extent possible, telephone calls and news releases to the media and interested persons should be made to give public notice of the agenda and time and place of meeting.

(Ordinance No. 79-65, Sec. 5. Amended by Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.055 Participation of Council Members by Electronic Means

(a) For any regular meeting or special meeting of the council, council members may participate in the meeting by the use of a voice or data communication device that allows communication with all other meeting participants provided the following conditions are fulfilled:

(1) The councilor who wishes to participate by electronic means must file a written request with the Council President stating the reasons why the councilor cannot be physically present at the meeting, and why extraordinary circumstances exist that require that the councilor should participate by electronic means.

(2) The Council President files with the Chief Operating Officer a written report explaining the circumstances and containing the Council President's determination that the physical absence of the councilor is both unavoidable and excusable and that the physically absent councilor should participate in the meeting.

(3) A majority of the council must be physically present at any special or regular meeting for a quorum to exist.

(b) Any emergency meeting may be conducted by electronic means consistent with the Oregon Public Meetings Law.

(c) Participation at any council meeting by electronic means shall not constitute attendance at a meeting of the

council for the purpose of Section 22(1)(e) of the Metro Charter.

(Ordinance No. 94-559A, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1; and Ordinance No. 11-1251.)

2.01.060 Notice and Agenda

(a) An agenda that sets forth the time, date, and place of the meeting, that includes the title and a brief description of the ordinances and other matters to be considered, and that states that copies of ordinances are available at the office of Metro shall be published in a newspaper of general circulation within the district no more than 10 nor less than three days before a regular meeting of the council. If an executive session will be held, the notice shall state the specific provision of the law authorizing the executive session. Items may be considered at a regular or special meeting that were not included in the published agenda as provided by law.

(b) The Council President shall establish the agenda from the agenda items submitted by the councilors, council committees or the auditor. By majority vote of a quorum of the council any matter that has been filed for council consideration shall be considered at a subsequent meeting. The Council President may, at his or her discretion, determine the time by which agenda items must be submitted for inclusion in the next succeeding agenda.

(Ordinance No. 79-65, Sec. 6. Amended by Ordinance No. 84-176, Sec. 2; Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.070 Ordinances

(a) The legislative action of Metro shall be by ordinance.

(b) Before an ordinance is adopted, it shall be read at a previous meeting of the council; the title of the ordinance must be included in the written agenda of the meeting at which the ordinance is adopted; the agenda shall be publicized not less than three business days nor more than 10 days before the meeting; and copies of the ordinance shall be available for public inspection at least three business days before the meeting. The reading shall be full and distinct unless at the meeting:

(1) A copy of the ordinance is available for each person who desires a copy; and

(2) The Council President directs that the reading be by title only.

(c) Ordinances may be introduced for council consideration by the council, a councilor or councilors, a committee of the council, the auditor, or by the Chief Operating Officer with the concurrence of the Council President. The council by resolution shall adopt procedures for introduction and consideration of ordinances.

(d) Except as provided in Section 38(1) of the Metro Charter, the affirmative vote of at least four members of the council is required to adopt an ordinance. A roll call vote shall be taken on all ordinances. Any ordinance which receives four or more nay votes shall be defeated and shall be filed and receive no further consideration. Any ordinance voted upon and neither adopted nor defeated shall be continued to the next regular meeting.

(e) Within seven days after adoption or final adoption of an ordinance, the enrolled ordinance shall be:

(1) Signed by the Council President;

(2) Attested by the person who served as recording secretary of the council at the meeting at which the council adopted the ordinance; and

(3) Filed in the records of Metro.

(f) If required by law, a certified copy of each ordinance shall be filed with the Division of Courts Process of Multnomah County, and the county clerks for Washington and Clackamas counties.

(g) The provisions of subsection (b) of this section do not apply to an ordinance adopted by the unanimous consent of the council and containing findings on the need for immediate adoption.

(Ordinance No. 79-65, Sec. 7. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 91-407A, Sec. 1; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.080 Resolutions

(a) All matters other than legislation and procedural matters coming before the council and requiring council action shall be handled by resolution.

(b) Excluding procedural matters, the affirmative vote of a majority of the council is required to adopt a resolution. Procedural matters shall be subject to Robert's Rules of Order, newly revised, unless this Code provides otherwise.

(c) Resolutions shall become effective upon adoption unless a later date is specified therein.

(d) The council by resolution shall adopt procedures for introducing and considering resolutions. *Note: will require four "yes" votes to adopt resolution.

(Ordinance No. 79-65, Sec. 8. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.090 Conduct of Meetings

(a) A quorum of the council is a majority of the members of the council holding office. If a quorum is present, the council may proceed with the transaction of its business. If fewer councilors are present they may compel absent members to attend.

(b) Minutes of each meeting shall include at least the following information:

(1) All members of the council present;

(2) All motions, resolutions, and ordinances proposed and their dispositions;

(3) The results of all votes, and the vote of each councilor by name; and

(4) The substance of any discussion on any matter.

(c) Minutes of executive sessions may be limited consistent with Oregon Law.

(d) The written minutes shall be available to the public within a reasonable time after the meeting, and shall be main-

tained as a permanent record of the actions of the council by the Chief Operating Officer.

(e) The council shall by resolution adopt rules establishing procedures governing conduct of debate on matters considered by the council at council meetings.

(f) Council members present, but not voting or not specifically abstaining, shall be counted as voting with the majority. In the event that there is no such majority, such members shall be counted as abstaining.

(g) Except for ordinances, the Council President may order the unanimous approval of any matter before the council unless there is an objection from one or more councilors. If there is an objection, then a voice vote shall be taken, unless the objecting councilor requests a roll call vote in which case a roll call vote shall be taken. At each meeting, the council shall rotate the order for each roll call vote so that the councilor who voted first shall vote last on the next roll call vote, except that the Council President shall always vote last on a roll call vote.

(h) In the event a matter is the subject of a voice vote or a roll call vote, after the vote is taken the Council President shall announce the result of the votes. Prior to proceeding to the next item on the agenda, or if the item voted upon is the last item on the agenda before adjournment, any member may request that the council change that member's vote in which case the change in vote shall be announced by the Council President and the result of the votes as modified shall also be announced. Upon commencement of the next agenda or adjournment, as the case may be, all votes shall become final and may not be further changed without the unanimous consent of the council.

(i) Any matter not covered by this chapter or a rule adopted by the council pursuant to a resolution shall be determined by Robert's Rules of Order, newly revised. The council may by a positive vote of two-thirds of the members of the council authorize the suspension of any rule adopted by a resolution of the council.

(j) All meetings of the council, its committees and advisory committees shall be held and conducted in accordance with the Oregon Public Meetings Law.

(Ordinance No. 95-583B, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1; and Ordinance No. 11-1251, Sec. 1.)

2.01.100 Adoption and Amendment of Rules

No standing rule of procedure of the council shall be adopted, amended, or repealed except pursuant to a duly adopted resolution approved by the affirmative vote of a majority of the members of the council. Any rule may be suspended by a vote of two-thirds of the members of the council.

(Ordinance No. 79-65, Sec. 10. Amended by Ordinance No. 95-583B, Sec. 1.)

2.01.110 Reconsideration

(a) When a matter has been adopted or defeated, any councilor voting on the prevailing side may move for reconsideration of the matter.

(b) Notice of the intention to move for reconsideration of an ordinance or resolution must be given orally by the councilor who intends to make the motion prior to adjournment on the same day on which the vote to be reconsidered was taken.

(c) Motion to reconsider shall be made and voted on not later than the next regular meeting after the meeting on which the vote to be reconsidered was taken. The motion for reconsideration has precedence over any other motion.

(d) A motion for reconsideration must receive the affirmative vote of a majority of the members of the council in order to be adopted.

(e) There shall be only one reconsideration of any final vote even though the action of council reverses its previous action.

(Ordinance No. 79-65, Sec. 11. Amended by Ordinance No. 95-583B, Sec. 1.)

2.01.120 Communications from the Public

Communications from the public both for matters on the agenda and matters not on the agenda may be allowed by the council according to rules and procedures prescribed by resolution.

(Ordinance No. 79-65, Sec. 12. Amended by Ordinance No. 91-407A, Sec. 3; Ordinance No. 95-583B, Sec. 1.)

2.01.130 Order of Business

(a) The general order of business for the council shall be prescribed by resolution.

(b) Questions relating to the priority of business shall be decided without debate. The general order of business shall not be varied except upon the affirmative vote of a majority of the council present and voting, a quorum being present.

(c) A consent agenda shall be presented for the consideration and vote of the council only at regular meetings. Items may be placed on the consent agenda pursuant to rules establishing criteria adopted by the council by resolution. Copies of the consent agenda shall be printed and distributed to the council prior to consideration.

(d) Before calling for the vote on the consent agenda, the Council President shall ask if any councilor objects to any matter on the consent agenda. If any matter on the consent agenda is objected to by a member of the council, that matter shall be removed from the consent agenda and placed upon the regular agenda of the council at a time or place determined by the Council President.

(Ordinance No. 79-65, Sec. 13. Amended by Ordinance No. 80-87, Sec. 2; Ordinance No. 91-407A, Sec. 4; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.140 Standing Committees of the Council

The council may from time to time establish standing committees as it deems necessary consistent with Section 2.01.010(b). The purpose, structure, membership and responsibilities of any standing committee shall be established by the council by the adoption of a resolution.

(Ordinance No. 79-65, Sec. 14. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 91-407A, Sec. 5; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

2.01.170 Salary and Expenditure Reimbursement Guidelines

(a) Councilors shall be paid an authorized salary at the same time as regular Metro employees. The amount of the salary shall be as prescribed by law. The annual salary shall be divided into 24 equal payments. If a councilor vacates the office, he or she shall be paid on a pro-rata basis for the number of working days from the last pay period. A councilor

may waive all or any portion of an authorized salary by signing a waiver form which indicates the amount of salary waived and the period of time for the waiver. The waiver shall remain in effect until written notice of cancellation is given prior to the commencement of the pay period for which the waiver will no longer be in effect. A councilor who waives a salary must sign a release form at the time of receipt of a salary which releases Metro from any further obligation for the period of time for which the salary is paid.

(b) The council by resolution shall adopt guidelines for reimbursement of councilors for expenses incurred in the conduct of business of Metro. The guidelines shall specify the amount each councilor shall be allocated for authorized expenditures, the type of authorized expenditure, and procedures for the request and approval of expenditure reimbursement requests.

(c) Pursuant to Metro Charter Section 21(4), the salary paid to members of the Council is the full and exclusive compensation that may be paid to them by Metro. Councilors may not become employees of Metro during their term of office. Councilors shall receive an equivalent benefit (health and welfare coverage) package received by full-time Metro employees but in no event shall such benefits be measured based on any determination of the amount of time devoted to official duties.

(Ordinance No. 89-289, Sec. 1. Amended by Ordinance No. 93-481, Sec. 1; Ordinance No. 95-583B, Sec. 1; and Ordinance No. 02-958A, Sec. 1.)

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CHAPTER 2.02

PERSONNEL CODE*

Section	Title
2.02.010	Personnel Code
2.02.020	Exemptions
2.02.030	Definitions of Personnel Terms
2.02.040	New Positions
2.02.050	Charitable Solicitations
2.02.060	Affirmative Action Policy
2.02.070	Recruitment and Appointment
2.02.080	Drug and Alcohol Policy
2.02.090	Smoking Policy
2.02.100	Employee Organizations and Representation
2.02.110	Political Activity
	Repealed
2.02.120	Ethical Requirements for Employees, Officers, Elected and Appointed Officials (Repealed Ordinance 16-1373.)

* Formerly "Personnel Rules"; renamed and amended by Ordinance 05-1082, Sec. 1.

2.02.010 Personnel Code

Sections 2.02.001 to 2.02.110 of this Metro Code shall be known as and may be cited as the "Metro Personnel Code."

The provisions in this chapter do not constitute a contract of employment. Moreover, in order to meet future challenges, the Council retains the flexibility to change, substitute, and discontinue the policies and benefits described herein, at any time, with or without notice to employees. No person shall be deemed to have a vested interest in, or legitimate expectation of, continued employment with Metro, or any policy or benefit described herein or otherwise generally followed by Metro. No contract of employment can be created, nor can an employee's status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council. Notwithstanding the foregoing, however, the Metro Council may delegate by resolution to the Chief Operating Officer the authority to execute written employment agreements on a case by case basis, or as a group for

Director level employment agreements where all terms in those employment agreements are identical except salary.

(Ordinance 14-1350, Sec. 1.)

(a) Duties of Chief Operating Officer. Administration and enforcement of the personnel code shall be the responsibility of the Chief Operating Officer. The Chief Operating Officer, or his or her delegee, shall:

(1) Establish and maintain:

(A) A record of all employees in Metro service;

(B) The Metro employee classification plan;

(C) The salary plan and salary administration policies, including employee benefits, including employee benefits.

(2) Prepare such rules, policies, and procedures as are necessary to carry out the duties, functions and powers of this personnel code, and to effectively administer Metro personnel.

(3) Establish a system of personnel administration based on merit, governing recruitment, appointment, tenure, transfer, layoff, separation, discipline of employees.

(4) Devise and employee training programs, for the purpose of improving the quality of service rendered by Metro personnel.

(5) Conduct labor negotiations with the authorized collective bargaining representatives of Metro employees

(6) Serve as the final grievance adjustment officer in personnel matters.

(7) Make quarterly reports to the Council regarding the personnel administration of Metro.

(b) The Metropolitan Exposition-Recreation Commission shall adopt personnel rules consistent with and subject to Section 6.01.040 of the Metro Code notwithstanding any provision of this chapter to the contrary. The Chief Operating Officer shall through the General Manager administer the policies adopted by the Commission.

(Ordinance 05-1082, Sec. 1; Ordinance 09-1229, Sec. 2.)

2.02.020 Exemptions

(a) Notwithstanding any provision of this chapter, individual positions in the Office of Chief Operating Officer assigned

to provide services to the Council may be designated as exempt from and not subject to this chapter, provided that the Council President has given written approval of the exemption after 10 days prior notice has been given to members of the Council.

(b) Notwithstanding any provision of this chapter, employees in the Office of Auditor shall be exempt from and shall not be subject to this chapter, except as expressly determined in writing by the Auditor, limited however to budgeted funds allocated to the Office of Auditor.

(Ordinance 81-116, Sec. 46; Ordinance 94-523B; Ordinance 02-965A, Sec. 1; Ordinance 05-1082, Sec. 1.)

2.02.030 Definitions of Personnel Terms

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

(a) "Auditor" means the elected Auditor of Metro or his/her designee.

(b) "Chief Financial Officer" means the person responsible for managing the financial affairs and budget of Metro and designated as such by the Chief Operating Officer.

(c) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

(d) "Council" means the elected governing body of Metro.

(e) "Department" means a major functional unit of Metro as designated by the Chief Operating Officer.

(f) "Department Director" means a person designated by the Chief Operating Officer to be responsible for the administration of a department or his/her designee.

(g) "Employee" means an individual who is salaried or who receives wages for employment with Metro.

(h) "Full-time" means a position in which the scheduled hours of work are 40 hours per week and which is provided for in the adopted budget.

(i) "Layoff" means a separation from employment because of organizational changes, lack of work, lack of funds, or for other reasons not reflecting discredit upon the employee.

(j) "Part-time" means a position in which the scheduled hours of work are less than 40 hours per week but at least 20

hours or more per week and which is provided for in the adopted budget.

(k) “Human Resources Director” means the employee appointed by the Chief Operating Officer to administer the provisions of this chapter, regardless of whether the person is also a Department Director.

(l) "Represented employee" means an employee who is in a recognized or certified bargaining unit.

(m) "Separation" is the cessation of employment with Metro not reflecting discredit upon the employee.

(n) "Status" refers to the standing of an employee.

(o) "Termination" means the cessation of employment with Metro.

(Ordinance 81-116, Sec. 6; Ordinance 94-523B; Ordinance 95-602A, Sec. 1; Ordinance 02-965A, Sec. 1; Ordinance 05-1082, Sec. 1.)

2.02.040 New Positions

Any new positions added to the budget require Council approval.

(Ordinance 81-116, Sec. 26; Ordinance 94-523B.)

2.02.050 Charitable Solicitations

(a) Charitable solicitations of Metro employees while on the job during working hours shall be conducted in compliance with this section. No other solicitations of Metro employees while on the job during working hours by a charitable organization shall be permitted.

(b) The Chief Operating Officer and/or his/her designee(s) shall by executive order establish policies and procedures to implement this section, including procedures for applications, time and length of solicitation campaigns, charitable approved for the campaign, and payroll deductions.

(Ordinance 05-1082, Sec. 1; Ordinance 05-1088, Sec. 1; Ordinance 11-1259, Sec. 1.)

2.02.060 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. The Chief Operating Officer or his/her designee will adopt an affirmative action policy

and program, as well as appropriate anti-discrimination and harassment policies, which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

(c) Recruitment Efforts. Recruitment efforts will be coordinated by the office of human resources in cooperation with the hiring department. Recruiting publicity will be distributed through appropriate media and/or other organizations to meet affirmative action guidelines. Such publicity will indicate that Metro is an affirmative action, equal opportunity employer and will be designed to attract a sufficient number of qualified applicants.

(Ordinance 81-116, Sec. 53; Ordinance 94-523B; Ordinance 03-993A, Sec. 4; Ordinance 05-1082, Sec. 1.)

2.02.070 Recruitment and Appointment

(a) Except as otherwise provided for in this Code, all appointments of employees shall be the sole responsibility of the Chief Operating Officer, subject to the provisions of this chapter.

(b) All appointments of employees to the Office of the Metro Attorney shall be the sole responsibility of the Metro Attorney.

(c) All appointments of employees to the Office of Auditor shall be the sole responsibility of the Auditor.

(d) Appointments of Department Directors, the Chief Financial Officer, the Human Resources Director, the Metro Attorney, staff in the Office of the Chief Operating Officer, and staff in the Office of the Auditor, may be made without going through the normal recruitment and selection process. The Human Resources Director, the Chief Financial Officer, all Department Directors, and all appointed staff in the Office of the Chief Operating Officer shall serve at the pleasure of the Chief Operating Officer. Staff in the Office of Auditor shall serve at the pleasure of the Auditor.

(Ordinance 81-116, Sec. 8; Ordinance 84-183, Sec. 1; Ordinance 87-218, Sec. 1; Ordinance 88-255, Sec. 1; Ordinance 91-378A, Sec. 5; Ordinance 94-523B; Ordinance 95-602A, Sec. 1; Ordinance 02-965A, Sec. 1; Ordinance 05-1082, Sec. 1.)

2.02.080 Drug and Alcohol Policy

(a) Purpose. The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Human Resources Director.

(b) Employee Conduct.

(1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).

(2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro’s employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.

(3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.

(4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee’s supervisor, or the Human Resources Director.

(5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) Drug and Alcohol Testing. Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours.

"Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Human Resources Director.

(d) Definitions. For the purposes of this policy:

(1) An employee has a controlled substance "in his or her system" when the employee tests "positive" in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.

(2) An employee is "under the influence" of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.

(3) The term "controlled substance" means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP), as specified in Schedule 1 or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) Drug Related Convictions. As required by the Drug-Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

(f) Refusal to Consent; Employees. An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration. The Drug and Alcohol Policy and program are administered by the Human Resources Director.

(Ordinance 03-993A, Sec. 3; Ordinance 05-1082, Sec. 1.)

2.02.090 Smoking Policy

Smoking (cigarettes, pipes and cigars) is prohibited inside all Metro facilities. Notwithstanding the provisions of this section, smoking is prohibited in any public meeting as defined in ORS 192.710.

(Ordinance 94-523B; Ordinance 05-1082, Sec. 1.)

2.02.100 Employee Organizations and Representation

(a) Employees of Metro have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters relating to wages, hours and working conditions in accordance with the Oregon Revised Statutes and Regulations of the State Employment Relations Board.

(b) Pay plans for represented employees are developed through collective bargaining and are subject to ratification by the Council.

(Ordinance 94-523B; Ordinance 05-1082, Sec. 1.)

2.02.110 Political Activity

(a) Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings. An employee must exercise all due caution in such activities to prevent public misunderstanding of such actions as representing Metro, or to bring discredit to Metro, the Council, or his/her supervisor.

(b) No official, employee or any other person shall attempt to coerce, command or require any Metro employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(c) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office-holder while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views. (ORS 260.432)

(Ordinance 94-523B; Ordinance 05-1082, Sec. 1.)

CHAPTER 2.03

CIVIL PENALTIES

SECTIONS	TITLE
2.03.010	Purposes
2.03.020	Definitions
2.03.030	Consolidation of Proceedings
2.03.040	Notice of Violation and Intent to Assess Civil Penalty
2.03.050	Mitigating and Aggravating Factors
2.03.060	Zoo Schedule of Civil Penalties
2.03.070	Solid Waste Schedule of Civil Penalties
2.03.080	Written Notice of Assessment of Civil Penalty; When Penalty Payable
2.03.090	Compromise or Settlement of Civil Penalty by Director

2.03.010 Purposes

The purpose of these rules and regulations is to prescribe the procedures and requirements for the notice, assessment, collection and enforcement of civil penalties.

(Ordinance No. 50, Sec. 1.)

2.03.020 Definitions

Unless otherwise required by context, as used in this subdivision:

(a) "Director" means the "Department Director" as defined in Section 2.17.020(d).

(b) "License" as used in this Code has the meaning given that word by ORS Chapter 183.

(c) "Order" means (i) any action satisfying the definition given in ORS Chapter 183, or (ii) any other action so designated in ORS Chapter 268.

(d) "Respondent" means the person against whom a civil penalty is assessed.

(e) "Violation" means a transgression of any provision or condition of any license and includes both acts and omissions.

(Ordinance No. 50, Sec. 2. Amended by Ordinance No. 02-967, Sec. 1.)

2.03.030 Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

(Ordinance No. 50, Sec. 3.)

2.03.040 Notice of Violation and Intent to Assess Civil Penalty

(a) Except as provided in subsection (d) of this section, prior to the assessment of any civil penalty the Director shall serve a written notice of violation and intent to assess civil penalties upon the respondent.

(b) The notice shall be personally delivered or sent by registered or certified mail by an employee of Metro or any other competent person over the age of 18 years to:

(1) The respondent; or

(2) Any person designated by law as competent to receive service of a summons or notice for the respondent; or

(3) Following appearance of counsel for the party, the party's counsel.

(c) A notice of violation shall specify the violation and state that Metro will assess a civil penalty if the violation continues or occurs after five (5) days following service of the notice.

(d) Written notice of violation and intent to assess a civil penalty shall not be required where:

(1) The respondent has otherwise received actual notice of violation not less than five (5) days prior to the violation for which a penalty is assessed.

(2) The violation is of a type that would normally not be in existence for five (5) days or the jurisdiction of Metro to prosecute the violation is liable to be interrupted within that time.

(Ordinance No. 50, Sec. 4.)

2.03.050 Mitigating and Aggravating Factors

(a) In establishing the amount of a civil penalty to be assessed, the Director or the Council shall consider the following factors:

(1) Whether the respondent has committed any prior violation, regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;

(2) The history of the respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(3) The economic and financial conditions of the respondent.

(b) In establishing whether a civil penalty should be remitted or mitigated, the Director or the Council may consider the following factors:

(1) The gravity and magnitude of the violation;

(2) Whether the violation was repeated or continuous;

(3) Whether a cause of the violation was an unavoidable accident, or negligence, or an intentional act of the respondent;

(4) The opportunity and degree of difficulty to correct the violation;

(5) The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

(6) The cost to Metro of investigation and correction of the cited violation prior to the time Metro receives respondent's answer to the written notice of assessment of civil penalty; or

(7) Any other relevant factor.

(c) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Council may presume that the economic and financial conditions of respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic

and financial condition or regarding any factor urged in mitigation shall be upon the respondent.

(Ordinance No. 50, Sec. 5.)

2.03.060 Zoo Schedule of Civil Penalties

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the Zoo by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(a) Not less than $100 nor more than $500 for violation of an order of Metro or its Council.

(b) Not less than $25 nor more than $500 for any violation which causes, contributes to, or threatens the injury of any Zoo animals.

(c) Not less than $25 nor more than $500 for any other violation.

(Ordinance No. 50, Sec. 6.)

2.03.070 Solid Waste Schedule of Civil Penalties

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the transferring, processing or disposal of solid waste by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(a) Not less than $100 nor more than $500 for violation of an order of Metro or its Council.

(b) Not less than $25 nor more than $500 for any other violation.

(Ordinance No. 50, Sec. 7.)

2.03.080 Written Notice of Assessment of Civil Penalty; When Penalty Payable

(a) A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service of the written notice of

assessment of civil penalty shall be in accordance with the service provisions of Section 2.03.040.

(b) The written notice of assessment of civil penalty shall include:

(1) A reference to the particular sections of the statute, rule, regulation, standard, order, certificate or permit involved;

(2) A short and plain statement of the matters asserted or charged;

(3) A statement of the amount of the penalty or penalties imposed; and

(4) A statement of the respondent's right to request a hearing.

(c) The respondent shall have 20 days from the date of mailing of the notice in which to make written application for a hearing before the Metro.

(d) All hearings shall be conducted pursuant to the contested case hearing procedures in the Metro Code.

(e) Unless the amount of the penalty is paid within 10 days after the order becomes final, the order shall constitute a judgment and may be filed in accordance with the provisions of Oregon Law. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(Ordinance No. 50, Sec. 8. Amended by Ordinance No. 02-967, Sec. 1.)

2.03.090 Compromise or Settlement of Civil Penalty by Director

At any time subsequent to service of the written notice of assessment of civil penalty, the Director is authorized to seek to compromise or settle any unpaid civil penalty which he deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Council.

(Ordinance No. 50, Sec. 9.)

CHAPTER 2.04

METRO CONTRACT POLICIES

SECTION TITLE

2.04.010 Definitions*

CONTRACTS IN GENERAL

2.04.020 Authority to Award and Execute Contracts, Budget Limitations
2.04.022 Federal Law and Rules
2.04.024 Metropolitan Exposition Recreation Commission
2.04.026 Council Approval of Contracts
2.04.028 Council Information Reports
2.04.030 Regulations
2.04.032 Prohibition Against Doing Business With Certain Former Metro Officials (repealed Ord. 99-822 §2)
2.04.035 Contract Provisions Requiring Records Maintenance and Permitting Audits

PERSONAL SERVICES CONTRACTS

2.04.040 Personal Services Contracts -- General
2.04.042 Procurement of Personal Services Contracts
2.04.044 Personal Services Contracts of More than $50,000.00 (repealed Ord. 04-1065A §6)
2.04.046 Personal Services Contract Amendments
2.04.048 Notice of Award and Appeals of Personal Services Contracts

CONTRACT REVIEW BOARD

2.04.050 Public Contract Review Board (repealed Ord. 04-1065A §8)
2.04.052 Public Contracts -- Public Improvement Contracts
2.04.053 Special Procurements
2.04.054 Competitive Bidding Exemptions for Public Improvements
2.04.056 Procurement of Public Contracts
2.04.058 Public Contract Amendments
2.04.060 Food Products (repealed Ord. 04-1065A §15)
2.04.062 Sole Source Procurements
2.04.064 Sale of Surplus Property
2.04.070 Notice of Award and Appeals

METRO ESB, MBE AND WBE PROGRAM

2.04.100 Findings
2.04.105 Policy Statement
2.04.110 Definitions

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*Note: Former sections 2.04.010 to 2.04.090 were repealed by Ordinance No. 96-635B, Sec. 3, which created existing sections 2.04.010 to 2.04.070.

2.04.115 Program Administration
2.04.120 Program Activities
2.04.125 Directory (repealed Ord. 97-692A §10)
2.04.130 Minority-Owned Banks
2.04.135 Affirmative Action and Equal Opportunity Procedures (repealed Ord. 97-692A §11)
2.04.140 Certification of Minority Business Eligibility (repealed Ord. 97-692A §11)
2.04.145 Annual Minority Business Goals (repealed Ord. 97-692A §11)
2.04.150 Good Faith Efforts at Maximizing ESB, MBE and WBE Opportunities
2.04.155 Contract Award Criteria (repealed Ord. 97-692A §13)
2.04.160 Definition and Determination of Good Faith Efforts (repealed Ord. 97-692A §13)
2.04.162 Contractor Work Force Efforts at Maximizing Minority and Women Opportunities
2.04.165 Replacement of ESB, MBE or WBE Subcontractors
2.04.170 Council Information Reports
2.04.180 Compliance (repealed Ord. 97-692A §18)
2.04.190 Severability and Intent
2.04.200-.290 (repealed Ord. 97-692A §22)

METRO DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR FEDERALLY-FUNDED CONTRACTS

2.04.300 Disadvantaged Business Enterprise Program (DBE Program) for Federally-Funded Contracts, Findings, Purpose and Authority
2.04.305 Policy Statement
2.04.310 Definitions
2.04.315 Notice to Contractors, Subcontractors and Sub-Recipients
2.04.320 DBE Liaison Officer
2.04.325 Directory
2.04.330 DBE-Owned Banks
2.04.335 Affirmative Action and Equal Opportunity Procedures
2.04.340 Certification of Disadvantaged Business Eligibility
2.04.345 Annual Disadvantaged Business Goals
2.04.350 Contract Goals
2.04.355 Contract Award Criteria
2.04.360 Determination of Good Faith Efforts
2.04.365 Replacement of DBE Subcontractors
2.04.370 Records and Reports
2.04.375 Counting Disadvantaged Business Participation Toward Meeting Goals
2.04.380 Compliance and Enforcement

METRO'S SUSTAINABLE PROCUREMENT PROGRAM[**]

2.04.500 Purpose and Intent
2.04.510 Definitions
2.04.520 Metro's Sustainable Procurement Administrative Rules
2.04.530 Metro's Sustainable Procurement Program Responsibilities
2.04.540 Report to Metro Council

[**] Note: Metro Code Chapter 2.04.500-580 formerly called Metro Recycled Product Procurement Program (Repealed Ord. 10-1247.)

Metro Code Chapter 2.04.500-540 now called Metro's Sustainable Procurement Program (Ordinance No. 10-1247, adopted 10/28/10, effective 01/26/11.)

2.04.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

(a) "Auditor" means the Metro Auditor provided for in Section 18 of the Metro Charter.

(b) "Chief Operating Officer" means the person holding the position of Chief Operating Officer established by Section 2.20.010 of the Metro Code.

(c) "Competitive bidding" means an advertised solicitation of sealed bids.

(d) "Contract Review Board" or "Board" means the Metro Council, sitting as a local Contract Review Board pursuant to the provisions of ORS 279A.060.

(e) "Council President" means the Council President provided for in Section 16(4) of the Metro Charter.

(f) "Emergency" means circumstances that: (A) could not have been reasonably foreseen; (B) create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and (C) require prompt execution of a contract to remedy the condition.

(g) "Emergency contract" means a contract whose purpose is limited to remedying an emergency situation.

(h) "Intergovernmental agreement" means a written agreement with any other unit or units of federal, state or local government providing for the acquisition of goods or services by Metro, for the provision of goods or services by Metro or for the payment or receipt of funds in order to promote or carry out a common purpose.

(i) "Notice of award" means written communication to a responsive, responsible bidder or proposer stating that their bid or proposal has been conditionally determined to be the lowest, responsive, responsible bid or most responsive proposal and that Metro intends to enter into a contract upon completion by the bidder/proposer of all required conditions.

(j) "Personal services contract" means any contract by which Metro acquires a professional, artistic, creative, consulting, educational, or management service. Contracts which

are predominately for the purpose of obtaining a product, labor or materials, or the services of a construction trade are not a personal services contract.

(k) "Procurement Officer" means the person designated by the Chief Operating Officer to carry out the functions required of such person by this chapter.

(l) "Public agency" means any agency of the federal government, State of Oregon, or any political subdivision thereof, authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

(m) "Public contract" means any purchase, lease or sale by Metro of personal property, public improvement or services, including those transacted by purchase order, other than agreements which are for personal services.

(n) "Public improvement" means projects for construction, reconstruction or major renovation on real property by or for a contracting agency. "Public improvement" does not include (i) projects for which no funds of a contracting agency are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection, or (ii) emergency work, minor alteration, ordinary repair or maintenance in order to preserve a public improvement.

(o) "Request for Proposals or RFP" means the issuance of a request for offers that will be evaluated based on factors that are not limited to price alone.

(p) "Sole source contract" means a contract for which it can be documented that the goods or services or class of goods or services are available from only one source.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 1.)

CONTRACTS IN GENERAL

2.04.020 Authority to Award and Execute Contracts, Budget Limitations

The Chief Operating Officer and Auditor have the authority to award and execute contracts that are necessary to carry out their administrative responsibilities. These officers may delegate authority to award and execute contracts on their behalf by doing so in writing. The Auditor shall be subject to the same limitations and have the same authority as provided for

the Chief Operating Officer by this Code Chapter. Unless the Council expressly approves a contract containing a requirement to the contrary, no contract may obligate Metro to the payment of funds not appropriated for that purpose by the Council.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1.)

2.04.022 Federal Law and Rules

Notwithstanding any provision of this chapter, the applicable federal laws, rules and regulations shall govern in any case where federal funds are involved and the federal laws, rules and regulations conflict with any of the provisions of this chapter or require additional conditions in public or personal services contracts not authorized by this chapter.

(Ordinance No. 96-635B, Sec. 3.)

2.04.024 Metropolitan Exposition Recreation Commission

The Metro Council delegates to the Commission the authority to approve contracts, independent of the authority it has granted to the Chief Operating Officer pursuant to Section 2.04.020. The Commission may adopt rules or regulations which delegate to the Chief Operating Officer authority to enter into contracts on behalf of the Commission and may require Commission approval of contracts. The Metro Council is the local Contract Review Board for the Commission.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 2.; and Ordinance No. 09-1229, Sec. 3.)

2.04.026 Council Approval of Contracts

(a) Notwithstanding any other provisions of this chapter, the Chief Operating Officer, Metro Attorney, or Auditor must obtain authorization by the Council prior to execution of the following types of contracts:

(1) Any agreement entered into pursuant to ORS Chapter 190 by which Metro acquires or transfers any interest in real property, assumes any function or duty of another governmental body, or transfers any function or duty of Metro to another governmental unit; or

(2) Any contract for the purchase, sale, lease or transfer of real property owned by Metro.

However, the Chief Operating Officer may execute options to purchase real property.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 99-822, Sec. 1; Ordinance No. 02-966A, Sec. 1; Ordinance 04-1065A, Sec. 3; Ordinance No. 06-1123A, Sec. 1.)

2.04.028 Council Information Reports

(a) Prior to adoption of the annual budget, the Chief Operating Officer shall provide the Council with a list of proposed contracts and proposed applications of Metro for grant funding over $50,000.00 to be entered into or sought during the next fiscal year. Following the adoption of the annual budget, if the Chief Operating Officer proposes (1) to enter into a contract that will commit Metro to the expenditure of appropriations not provided for in the current fiscal year budget in an amount greater than $50,000.00 that the Council has not considered during the annual budget process; or (2) to seek any individual grant funding in an amount greater than $50,000.00 that the Council has not considered during the annual budget process, the Chief Operating Officer shall inform the Council President in writing of such contract or grant proposal.

(b) The Chief Operating Officer shall provide a monthly report to Council showing all contracts awarded, amended or completed during the preceding month, all Metro applications for grant funding greater than $50,000.00, and all grants awarded by Metro greater than $25,000.00.

(c) The Chief Operating Officer shall make available to the Council on request information showing the status of all contracts whether listed in the adopted budget or not.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1, Ordinance No. 06-1123A, Sec. 2.)

2.04.030 Regulations

The Chief Operating Officer may establish by executive order additional regulations consistent with this chapter.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1.)

(2.04.032 Prohibition Against Doing Business With Certain Former Metro Officials. Repealed Ord. 99-822 §2)

2.04.035 Contract Provisions Requiring Records Maintenance and Permitting Audits

(a) All Metro contracts of $50,000.00 or more shall require contractors and subcontractors to maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, such contracts also shall require contractors and subcontractors to maintain any other records necessary to clearly document:

(1) The performance of the contractor, including, but not limited to, the contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the contractor or subcontractor under the terms of the contract or subcontract;

(2) Any claims arising from or relating to the performance of the contractor or subcontractor under a public contract;

(3) Any cost and pricing data relating to the contract; and

(4) Payments made to all suppliers and subcontractors.

(b) All Metro contracts of $50,000.00 or more shall require contractors and subcontractors to maintain records for the longer period of (i) six years from the date of final completion of the contract to which the records relate or (ii) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.

(c) All Metro contracts of $50,000.00 or more shall contain provisions requiring contractors and subcontractors to make records available to Metro and its authorized representatives, including, but not limited to, the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. Such contracts shall also provide that if the records are not made available within the boundaries of Metro, the contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro,

including, but not limited to, the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. Such contracts shall further provide that if the contractor elects to have such records outside these boundaries, the costs paid by the contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.

(d) All Metro contracts of $50,000.00 or more shall contain provisions by which contractors and subcontractors authorize and permit Metro and its authorized representatives, including, but not limited to, the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of any contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of subsection (e).

(e) All Metro contracts of $50,000.00 or more shall contain provisions by which contractors and subcontractors agree to disclose the records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

(f) All Metro contracts of $50,000.00 or more shall contain provisions by which contractors and subcontractors agree that in the event such records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such contracts shall further provide that such costs may be withheld from any sum that is due or that becomes due from Metro.

(g) Failure of the contractor or subcontractor to keep or disclose records as required by this code section or any solicitation document may result in disqualification as a bidder or proposer for future Metro contracts as provided in Metro Code Section 2.04.070(c), or may result in a finding that the contractor or subcontractor is not a responsible bidder or proposer as provided in Metro Code Section 2.04.052.

(Ordinance No. 04-1035, Sec. 2.)

PERSONAL SERVICES CONTRACTS

2.04.040 Personal Services Contracts -- General

(a) Disadvantaged Business Program. All contracting for personal services is subject to the Metro Disadvantaged Business Enterprise Program for Federally-Funded Contracts, Metro Women Business Enterprise Program, and the Metro Minority Business Enterprise Program provisions of this chapter.

(b) Substantive Requirements. All Metro personal services contracts shall contain all provisions required of local contracting agencies by ORS Chapter 279A and ORS Chapter 279B and shall be construed to be consistent with all relevant provisions of such chapters.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 04-1065A, Sec. 4.)

2.04.042 Procurement of Personal Services Contracts

(a) Any procurement of personal services not exceeding $10,000.00 may be awarded in any manner deemed practical or convenient by the Chief Operating Officer.

(b) Any procurement of personal services exceeding $10,000.00 but not exceeding $150,000.00 shall be awarded in accordance with the provisions of ORS 279B.070. In addition, the contracting department shall notify the Procurement Officer of the nature of the proposed contract, the estimated cost of the contract, and the name of the contact person.

(c) Any procurement of personal services exceeding $150,000.00 shall be awarded in accordance with the provisions of ORS 279B.060.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 97-692A, Sec. 20; Ordinance No. 99-822, Sec. 3; Ordinance No. 04-1065A, Sec. 5.; and Ordinance No. 14-1345, Sec. 1)

(2.04.044 Personal Services Contracts of More than $50,000.00. Repealed Ord. 04-1065A §6)

2.04.046 Personal Services Contract Amendments

(a) Personal services contracts may be amended to increase the amount of the contract to no more than twice the original contract amount. The limit provided in this subsection is cumulative and includes any and all contract amendments or extensions. Any contract amendment(s) in excess of this limit shall require approval by the Metro Council. The Metro Council

shall determine whether it is appropriate to amend the contract in light of the policies set forth in ORS 279A.015 and ORS 279B.010.

(b) Notwithstanding the provisions of subsection (a) of this section, personal service contracts may be amended to increase the amount of the contract to an amount more than twice the original contract amount if the original personal services contract was let by a formal competitive procurement, the amendment is for the purpose of authorizing additional work for which unit prices were provided that established the cost for the additional work and the original contract governs the terms and conditions of the additional work.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 99-822, Sec. 5; Ordinance No. 04-1065A, Sec. 7; Ordinance No. 06-1123A, Sec. 3.)

2.04.048 Notice of Award and Appeals of Personal Services Contracts

Notice of award and any appeal thereof shall be subject to the rules and procedures established in Section 2.04.070 except that the final determination of any appeal shall be made by the Council and not the Contract Review Board.

(Ordinance No. 96-635B, Sec. 3.)

(2.04.050 Public Contract Review Board. Repealed Ord. 04-1065A §8)

CONTRACT REVIEW BOARD

2.04.052 Public Contracts -- Public Improvement Contracts

(a) Procedural Requirements.

(1) The procedures for sealed competitive bidding, sealed competitive proposals, and all other methods of procurement of public contracts used by Metro shall comply with all requirements that are generally applicable to local governments as set forth in ORS Chapters 279A and 279B.

(2) The procedures for competitive bidding of all Metro public improvement contracts shall comply with all requirements that are generally applicable to local governments as set forth in ORS Chapter 279C.

(3) Notwithstanding the provisions of subsections (a)(1) and (a)(2),and pursuant to ORS 279A.065(5), the model rules adopted by the Oregon Attorney General shall not apply to Metro.

(4) The Chief Operating Officer may establish by executive order detailed procedural requirements consistent with this chapter and state law. In so doing, the Chief Operating Officer may adopt in whole or in part the model rules of procedure established by the Oregon Attorney General pursuant to ORS 279A.065.

(b) Substantive Requirements.

(1) All Metro public contracts shall contain all provisions required of local contracting agencies by ORS Chapters 279A and 279B and shall be construed to be consistent with all provisions of ORS Chapters 279A and 279B.

(2) All Metro public improvement contracts shall contain all provisions required of local contracting agencies by ORS Chapter 279C and shall be construed to be consistent with all provisions of ORS Chapter 279C.

(c) Rejection of Bids and Proposals. The Chief Operating Officer may reject any bid, proposal or response not in compliance with all prescribed procedures and requirements and may, for good cause, reject any or all bids, proposals or procurement responses for personal service contracts and public contracts in accordance with the provisions of ORS 279B.100 and may reject all bids or proposals for public improvement contracts in accordance with the provisions of ORS 279C.395.

(d) Bonds. Unless the Board shall otherwise provide, bonds and bid security requirements are as follows:

(1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for $150,000.00 or less.

(2) For public improvements, a labor and materials bond and a performance bond, both in an amount equal to 100 percent of the contract price are required for contracts over $150,000.00.

(3) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the Chief Operating Officer determines it is in the public interest.

(e) Disadvantaged Business Program. All public contracts are subject to the Metro Disadvantaged Business Enterprise Program for Federally-Funded Contracts, Metro Women Business Enterprise Program, and the Metro Minority Business Enterprise Program provisions of this chapter.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 99-822, Sec. 6; Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 9; and Sec. 1, Ordinance No. 11-1256; and Ordinance No. 14-1345, Sec. 2.)

2.04.053 Special Procurements

(a) Pursuant to ORS 279B.085, the following public contracts are approved as classes of special procurements based on the legislative finding by the Metro Contract Review Board that the use of a special procurement will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts and will result in substantial cost savings to Metro or the public or will otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the requirements that are applicable under ORS 279B.055, ORS 279B.060, ORS 279B.065, ORS 279B.070:

(1) Food for zoo animals, the purchase and sale of zoo animals, and the purchase of zoo gift shop retail inventory and resale items.

(2) Contracts for management and operation of food, parking or similar concession services at Metro facilities provided that procedures substantially similar to the procedures required for sealed competitive Request for Proposals used by Metro for personal services contracts are followed.

(3) Emergency contracts provided that the provisions of ORS 279B.080 are followed. An emergency contract must be awarded within 60 days of the declaration of the emergency unless the Board grants an extension.

(4) Purchase of food items for resale at facilities owned or operated by Metro.

(5) Contracts for warranties, including but not limited to computer software warranties, in which the supplier of the goods or services covered by the warranty has designated an authorized provider for the warranty service.

(6) Contracts for computer hardware, or computer software.

(7) Contracts under which Metro is to receive revenue by providing a service.

(8) Contracts for the lease or use of the convention, trade, and spectator buildings and facilities operated by the Metro Exposition-Recreation Commission.

(9) Public contracts by the Metro Exposition-Recreation Commission in an amount less than $100,000.00, which amount shall be adjusted each year to reflect any changes in the Portland SMSA CPI, provided that any rules adopted by the commission which provide for substitute selection procedures are followed.

(10) Contracts for equipment repair or overhaul, but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.

(11) Contracts in the nature of grants to further a Metro purpose provided a competitive Request for Proposal process is followed.

(12) The procurement of utilities or any other services whose price is regulated by any governmental body, including but not limited to telephone service, electric, natural gas, and sanitary services, provided that if competition is available, a Request for Proposal process is followed.

(13) Contracts for goods or services when the provider of the procured goods or services is required by the federal government or by the state of Oregon.

(14) Contracts for co-operative procurements permitted under ORS 279A.220 to 279A.225.

(15) The procurement of art and art related production and fabrication provided that a Request for Proposal process is followed.

(16) Sponsorships which are identified and approved in the proposed budget and are not designated by Council as having a significant impact as outlined in Section 2.04.026 need not follow a competitive bidding or proposal process. In order to be eligible for this exemption the sponsorship shall provide Metro with event advertising and/or media releases.

(17) Sponsorship contracts, provided that quotes are obtained from at least three potential sponsors or that good faith efforts to obtain such quotes are documented. A sponsorship contract is any contract under which the sponsor's name or logo is used in connection with a facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for the sponsor's agreement to pay consideration, including money, goods, services, labor, credits, property or other consideration.

(18) Contracts for projects that are not public improvements as defined in Metro Code Section 2.04.010(n) in which a contractor provides a material and substantial portion of the funding for such project.

(19) Contracts with any media outlet for the purchase of classified advertising, display advertising or the placement of public notices to publicize legal notices of public meetings and procurements.

(20) Contracts not exceeding $150,000 for personal services or for trade services (and not required as part of a public improvement project) when the provider of the procured services is a not –for-

profit organization, and the purpose of the services is to implement Metro programs and projects, provided the Metro Council has approved by resolution a process for awarding such contracts.

(21) Any contract exempt from competitive bidding under any statute of the state of Oregon.

(b) Description of procurement procedures for class special procurements: Procurements for each of the class special procurements described in subsection (a) shall be performed by means of procedures chosen by the Chief Operating Officer as an appropriate method tailored to and in light of the demands, circumstances and market realities associated with obtaining each of the enumerated goods and services. Such procurement procedures may include but shall not limited to direct negotiations with individual or multiple vendors or suppliers; negotiations with ranked proposers; competitive negotiations; or multiple tiered competitions.

(c) Specific contracts not within the classes described in subsection (a) may be procured by special procurements subject to the requirements of ORS 279B.085.

(Ordinance No. 04-1065A, Sec. 11; Ordinance No. 06-1123A, Sec. 4; Ordinance No. 11-1256, Sec. 2; and Ordinance No. 14-1345, Sec. 3.)

2.04.054 Competitive Bidding Exemptions for Public Improvements

Subject to the policies and provisions of ORS 279A.015 and 279C.300 and the Metro Code, all Metro and Metropolitan Exposition-Recreation Commission public improvement contracts shall be based upon competitive bids except:

(a) State Law. Classes of public improvement contracts specifically exempted from competitive bidding requirements by state law.

(b) Board Rule. The following class of public improvement contracts is exempt from the competitive bidding process based on the legislative finding by the Metro Council, sitting pursuant to ORS 279A.060 as a local Contract Review Board, that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such exemption will result in substantial cost savings: contracts for public improvements in which a contractor agrees to provide

a material and substantial portion of the funding for such public improvement project.

(c) Board Resolution. Specific contracts, not within the classes exempted in subsections (a) and (b) above, may be exempted by the Metro Council, sitting pursuant to ORS 279A.060 as a local Contract Review Board by resolution subject to the requirements of ORS 279C.335. The Board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 97-677B, Sec. 2; Ordinance No. 98-768, Sec. 2; Ordinance No. 99-822, Sec. 7; Ordinance No. 02-966A, Sec. 1; Ordinance No. 03-994A, Sec. 2; and Ordinance No. 04-1065A, Sec. 12.)

2.04.056 Procurement of Public Contracts

(a) Any procurement of a public contract not exceeding $10,000.00 may be awarded in any manner deemed practical or convenient by the Chief Operating Officer.

(b) Any procurement of a public contract exceeding $10,000.00 but not exceeding $150,000.00 shall be awarded in accordance with the provisions of ORS 279B.070. In addition, the contracting department shall notify the Procurement Officer of the nature of the proposed contract, the estimated cost of the contract, and the name of the contact person.

(c) Any procurement of a public contract exceeding $150,000.00 shall be awarded in accordance with the provisions of either ORS 279B.055, ORS 279B.060, or ORS 279B.085.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 97-692A, Sec. 21; Ordinance No. 99-822, Sec. 8; repealed and replaced by Ordinance No. 04-1065A, Sec. 14; and Ordinance No. 14-1345, Sec. 4).

2.04.058 Public Contract Amendments

(a) The Chief Operating Officer may execute amendments to public contracts, provided that any one of the following conditions are met:

(1) The original contract was let by a formal competitive procurement process, the amendment is for the purpose of authorizing additional work for which unit prices or alternates were provided

that established the cost for the additional work and the original contract governs the terms and conditions of the additional work; or

(2) The amendment is a change order that resolves a bona fide dispute with the contractor regarding the terms and conditions of a public contract or public improvement contract and the amendment does not materially add to or delete from the original scope of work included in the original contract; or

(3) The amendment is for a public improvement contract and increases the total obligation of the contract by no more than 20 percent. In computing the dollar amount of any amendment for the purpose of this subsection, the amount of original contract obligation shall be used. In addition, only the amount of additional work or extra cost shall be considered and such work or cost may not be offset by the amount of any deletions; amendments made under subsection (1) or (2) are not included in computing the aggregate amount under this subsection; or

(4) The amount of the aggregate cost increase resulting from all amendments to a public contract other than a public improvement contract does not exceed 20 percent of the initial contract if the face amount is less than or equal to $1,000,000.00 or 10 percent if the face amount is greater than $1,000,000.00; amendments made under subsection (1) or (2) are not included in computing the aggregate amount under this subsection; or

(5) The amendment is for a change order to a public improvement contract in order to meet an emergency; or

(6) The Metro Contract Review Board has authorized the extension of the contract amendment.

(b) No public contract may be amended to include additional work or improvements that are not directly related to the scope of work that was described in the competitive process utilized to award the contract.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 99-822, Sec. 9; Ordinance No. 02-966A, Sec. 1, Ordinance No. 06-1123A, Sec. 5; and Ordinance No. 11-1256, Sec. 3.)

(2.04.060 Food Products. Repealed Ord. 04-1065A §15)

2.04.062 Sole Source Procurements

A contract for goods or services may be awarded without competition when the Metro Council, sitting pursuant to ORS 279A.060 as a local Contract Review Board determines in writing by resolution and in accordance with the provisions of ORS 279B.075 that the goods or services or class of goods or services are available from only one source.

(Ordinance No. 96-635B, Sec. 3. Repealed and replaced by Ordinance No. 04-1065A, Sec. 17.)

2.04.064 Sale of Surplus Property

(a) Contracts for sale of surplus property may be executed without competitive sealed bids or proposals only when the Chief Operating Officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by bid will be such that a liquidation sale will result in substantially greater net revenue to Metro.

(b) Contracts for the sale of personal property shall be performed in accordance with ORS 279A.185.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 18.)

2.04.070 Notice of Award and Appeals

(a) At least seven (7) days prior to the execution of any public contract over $150,000.00 for which a competitive bid or proposal process is required, Metro shall provide a notice of award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals.

(b) Bid/Request for Proposals Appeal Procedures. The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a public contract or a personal services contract above $150,000.00. The appeal process for bids is the same as for a Request for Proposals. In the case of a Request for Proposal(s), disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

(1) All appeals shall be made in writing and shall be delivered to the Procurement Officer at Metro's main office within seven (7) working days of the postmarked date on the notice of award. The written appeal must describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based.

(2) The Procurement Officer shall forthwith notify the appropriate Department Director and the Chief Operating Officer of the appeal. In the case of an appeal of an award by a Commission or the Metro Auditor, the appeal shall be forwarded to the Commission or Metro Auditor. Within 10 working days of the receipt of the notice of appeal, the Chief Operating Officer, Commission or Metro Auditor shall send a notice of rejection of the appeal or a notice of acceptance of the appeal, as applicable, to the appellant. The appellant may appeal the Chief Operating Officer's, Commission's, or Metro Auditor's decision to reject the appeal in writing to the Board within five (5) working days from the postmarked date on the notice of rejection.

(3) The Board will review the grounds for appeal, all pertinent information, and the Chief Operating Officer's, Commission's or Metro Auditor's recommendation, and make a decision. The decision of the Board is final.

(4) No contract, which is the subject of a pending appeal, may be executed unless the Board shall have given its approval. The Chief Operating Officer, Commission or Metro Auditor may request the Board to determine a matter without waiting for the expiration of the time periods provided for herein.

(5) In the event Council authorization of execution of the contract is required under Section 2.04.026 of this Code, the appeal shall be heard before the Council considers authorization of the contract.

(c) Appeals from Debarment or Denial of Prequalification

(1) The Board shall hear all appeals from any person who is disqualified by Metro as a bidder. The basis for the appeal shall be limited to the following grounds:

(A) Debarment of bidders and proposers pursuant to ORS 279B.130.

(B) Denial of prequalification to bid pursuant to ORS 279B.120 and 279B.125.

(2) Any person who wishes to appeal debarment or denial of prequalification as a bidder shall, within three (3) business days after receipt of notice of disqualification, notify in writing the Metro Attorney that the person appeals the disqualification. The Metro Attorney shall promptly notify the Board of the appeal by providing notice to the Council President.

(3) Promptly upon receipt of notice of appeal, the Council President shall notify the appellant and the Metro Attorney of the time and place of the appeal proceeding.

(4) The Board shall conduct the appeal proceeding in accordance with the provisions of ORS 279B.425 and decide the appeal within 30 days after receiving notification of the appeal from the Metro Attorney. The Board shall set forth in writing the reasons for the decision.

(5) Appeal Proceeding.

(A) The Council President shall preside over the appeal proceeding. The general order shall be as follows:

(i) Presentation by Metro of documentation and testimony supporting the disqualification.

(ii) Presentation by the appellant of documentation and testimony opposing the disqualification.

(B) Members of the Board shall have the right to ask both Metro and the appellant questions and to review documentation referred to and presented by the parties.

(C) Formal court rules of evidence shall not apply.

(D) The Board shall consider de novo the notice of debarment or denial of prequalification, and record of investigation made by Metro and any evidence provided by Metro and the appellant prior to or at the appeal proceeding. There shall be no continuance or reopening of the appeal proceeding to offer additional evidence unless the appellant can demonstrate to the Council President that the additional evidence was not known to the appellant at the time of the proceeding or that with reasonable diligence the appellant would not have discovered the evidence prior to the appeal proceeding.

(E) A tape recording will be made of the appeal proceeding which shall be made available to the appellant upon payment of costs to Metro of making the tape.

(F) The Board shall render a decision which shall be reviewed only upon petition in the Circuit Court of Multnomah County. The petition must be filed within 15 days after the date of the decision in accordance with the provisions of ORS 279B.425.

(6) Metro may reconsider its determination with regard to the debarment or denial of prequalification at any time prior to the appeal proceeding.

(d) Appeals of contract awards and decisions of the Auditor shall be made directly to the Contract Review Board.

(Ordinance No. 96-635B, Sec. 3. Amended by Ordinance No. 99-822, Sec. 10; Ordinance No. 02-966A, Sec. 1; Ordinance No. 04-1065A, Sec. 19; Ordinance No. 11-1256, Sec. 4.; and Ordinance No. 14-1345, Sec. 5.)

METRO ESB, MBE AND WBE PROGRAM

2.04.100 Findings

(a) The Metro Council finds:

(1) The opportunity for full participation in our free enterprise system by emerging small businesses, minorities and women owned businesses is essential;

(2) Greater economic opportunity for emerging small businesses, minorities and women owned businesses is essential;

(3) Historical patterns of exclusion and discrimination against racial or ethnic groups and women resulted in unfortunate effects of social, political and economic inequity that still exist;

(4) It is in the best interest of Metro and the community to do business with emerging small businesses, minority and women owned businesses resulting in increased competition and a stronger local economy;

(5) In cooperation with the private sector, the affected populations, interested groups and appropriate governmental entities, a program should be established to recommend remedies.

(b) It is the purpose of this policy to establish and implement a program to encourage the utilization by Metro of emerging small businesses, minority and women owned businesses, to the greatest extent permitted by law, by creating for such businesses the maximum possible opportunity to compete for and participate in locally-funded Metro contracting activities. This program does not apply to federally-funded contracts, which are governed by Metro Code 2.04.300, et seq.

(Ordinance No. 83-165, Sec. 1. Amended by Ordinance No. 84-181, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; repealed by Ordinance No. 97-692A, Sec. 1; replaced by Ordinance No. 97-692A, Sec. 2.)

2.04.105 Policy Statement

(a) Metro expresses its strong commitment to provide maximum opportunity to do business with ESBs, MBEs and WBEs.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the locally-funded projects, programs and services of Metro. Metro and Metro contractors shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(Ordinance No. 83-165, Sec. 2. Amended by Ordinance No. 84-181, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; amended by Ordinance No. 97-692A, Sec. 1; and Ordinance No. 10-1240, Sec. 1.)

2.04.110 Definitions

For purposes of Metro Code Sections 2.04.100 to 2.04.190, unless the context requires otherwise, the following definitions shall apply:

a) "Department" means the State of Oregon's Department of Business Development, Office of Minority, Women and Emerging Small Business or such state agency, department or entity to which has been delegated the responsibility to certify a Emerging Small Business Enterprise, Minority Business Enterprise, Women Business Enterprise, or a Disadvantaged Business Enterprise and to engage in related activities.

(b) "Emerging Small Business" or "ESB" means a small business concern which is certified as such by the Department.

(c) "Minority Business Enterprise" or "MBE" means a business concern which is certified as such by the Department.

(d) “Public Improvement” has the meaning specified in Metro Code Section 2.04.010 (n).

(e) "Women Owned Business Enterprise" or "WBE" means a business concern which is certified as such by the Department.

(Ordinance No. 165, Sec. 3. Amended by Ordinance No. 84-181, Sec. 2; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; and Ordinance No. 88-252, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; amended by Ordinance

No. 96-635B, Sec. 4.; repealed by Ordinance No. 97-692A, Sec. 4; replaced by Ordinance No. 97-692A, Sec. 5; amended by Ordinance No. 10-1240, Sec. 2.)

2.04.115 Program Administration

(a) The Procurement Officer shall be responsible for administering this program on behalf of the Chief Operating Officer.

(b) In administering this program, the Procurement Officer shall advise potential ESB, MBE and WBE vendors that Metro does not certify ESBs, MBEs and WBEs, and shall direct them to the Department.

(Ordinance No. 83-165, Sec. 4. All previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; repealed by Ordinance No. 97-692A, Sec. 6; replaced by Ordinance No. 97-692A, Sec. 8; amended by Ordinance No. 02-966A, Sec. 1.; and amended by Ordinance No. 10-1240, Sec. 3.)

2.04.120 Program Activities

The Procurement Officer shall develop procedures in the following areas leading to increased business with ESBs, MBEs, and WBEs:

(a) Outreach. Such procedures may include electronic notices, annual contract lists, newsletters, attending regularly-scheduled contractor orientation programs, and participation in local and regional outreach opportunities.

(b) Technical Assistance. Provide information on feasible options for management assistance, bonding, insurance, certification and financial assistance.

(c) Reduce Contract Size. Examining alternatives for arranging contracts by size and type of work so as to enhance the possibility of participation by ESBs, MBEs and WBEs.

(d) Education. Periodic training for staff to ensure awareness of program objectives and desired activities on their part.

(e) Plan Centers. Ensuring ESB, MBE and WBE plan centers and contractors are receiving requests for bids, proposals and quotes.

(f) Advertising. Advertise formal purchases and contracting opportunities in at a minimum, one newspaper of general circulation and one minority-oriented publication. Additional advertising may be used in order to increase outreach to the MWESB community.

(g) Informal Purchasing Opportunities. Requiring that at least one ESB and one MBE and one WBE vendor or contractor be contacted for all purchases and contracts more than $10,000.00 and less than $150,000.00. The program coordinator may waive this requirement if he/she determines that there are no certified ESBs, MBEs and WBEs on the certification list capable of providing the service or item. Any such waivers shall be in writing, and shall be kept as supporting documentation.

(h) Informal Construction Opportunities. Requiring all public improvement construction opportunities for contracts more than $10,000.00 and less than $50,000.00 to be bid only by qualified ESBs, MBEs and WBEs. The Procurement Officer may waive this requirement if he/she determines that there are no certified ESBs, MBEs and WBEs on the certification list capable of providing the project needed. Any such waivers shall be in writing, and shall be kept as supporting documentation.

(i) Additional Activities. The Procurement Officer may establish and implement additional techniques which are consistent with this Program and designed to facilitate participation of ESBs, MBEs and WBEs in Metro purchasing and contracting activities.

(Ordinance No. 83-165, Sec. 5. Amended by Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; repealed by Ordinance No. 97-692A, Sec. 7; replaced by Ordinance No. 97-692A, Sec. 9; amended by Ordinance No. 02-966A, Sec. 1.; Ordinance No. 10-1240, Sec. 4.; and Ordinance No. 14-1345, Sec. 6.)

(2.04.125 Directory. Repealed Ord. 97-692A §10)

2.04.130 Minority-Owned Banks

Metro will seek to identify minority-owned banks and banks utilizing equal opportunity banking practices, including community reinvestment, and, to the greatest extent permitted by law, use their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on such banks.

(Ordinance No. 83-165, Sec. 7. Amended by Ordinance No. 84-181, Sec. 3; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2.)

(2.04.135 Affirmative Action and Equal Opportunity Procedures. Repealed Ord. 97-692A §11)

(2.04.140 Certification of Minority Business Eligibility. Repealed Ord. 97-692A §11)

(2.04.145 Annual Minority Business Goals. Repealed Ord. 97-692A §11)

2.04.150 Good Faith Efforts at Maximizing ESB, MBE and WBE Opportunities

The Procurement Officer shall establish procedures relating to good faith opportunities for formal construction projects. Procedures shall be consistent in nature and scope with those of other local public bodies for ease in understanding for contractors.

(a) Good faith efforts for maximizing ESB, MBE and WBE subcontracting opportunities shall be required for construction contracts over $150,000.00.

(b) At the discretion of the Procurement Officer, good faith efforts may be required for any other contract, including architects and engineers. This requirement shall be made in writing prior to the solicitation of bids or proposals for such contract.

(c) When construction projects using a proposal process are approved by Council, the staff shall consider past ESB, MBE and WBE utilization as part of the selection criteria. The program coordinator shall provide the awarded contractor with ESB, MBE and WBE targets for subcontracting.

(d) Compliance with good faith efforts during the bidding process is required. Contractors failing to comply will be considered non-responsive.

(Ordinance No. 83-165, Sec. 11. Repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; Ordinance No. 88-252, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; amended by Ordinance No. 97-692A, Sec. 12; Ordinance No. 02-966A, Sec. 1.; Ordinance No. 10-1240, Sec. 5.; and Ordinance No. 14-1345, Sec. 7.)

(2.04.155 Contract Award Criteria. Repealed Ord. 97-692A §13)

(2.04.160 Definition and Determination of Good Faith Efforts. Repealed Ord. 97-692A §13)

2.04.162 Contractor Work Force Efforts at Maximizing Minority and Women Opportunities

(a) Metro contractors shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(b) Assuring that minorities and women have access to employment opportunities in the construction industry is critical. The Procurement Officer shall establish procedures relating to work apprenticeships for minorities and women for Metro major construction projects. Procedures may include participation in a workforce clearing house providing opportunities for minorities and women.

(Ordinance No. 97-692A, Sec. 14-15. Amended by Ordinance No. 02-966A, Sec. 1.; and amended by Ordinance No. 10-1240, Sec. 6.)

2.04.165 Replacement of ESB, MBE or WBE Subcontractors

Prime contractors shall not replace an ESB, MBE or WBE subcontractor with another subcontractor, either before contract award or during contract performance, without the prior written consent of Metro. Prime contractors who replace an ESB, MBE or WBE subcontractor shall make good faith efforts as described in the preceding section in selecting a replacement.

(Ordinance No. 83-165, Sec. 14. Amended by Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; amended by Ordinance No. 97-692A, Sec. 28; and amended by Ordinance No. 10-1240, Sec. 7.)

2.04.170 Council Information Reports

On behalf of the Chief Operating Officer, the Procurement Officer shall provide an annual report to Council showing Metro’s utilization of ESBs, MBEs and WBEs in the procurement and contracting process.

The Chief Operating Officer shall use MWESB utilization when evaluating the performance of this program and of Department Directors.

(Ordinance No. 83-165, Sec. 15. Amended by Ordinance No. 84-181, Sec. 7, and Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1; all previous Ordinances repealed by Ordinance No. 92-466A, Sec. 2; repealed by Ordinance No. 97-692A, Sec. 16; replaced by Ordinance No. 97-692A, Sec. 17; amended by

Ordinance No. 02-966A, Sec. 1.; and amended by Ordinance No. 10-1240, Sec. 8.)

(2.04.180 Compliance. Repealed Ord. 97-692A §18)

2.04.190 Severability and Intent

(a) The provisions of Metro Code Sections 2.04.100 to 2.04.190 shall be effective in all cases unless otherwise provided for by state or federal law. The provisions of Metro Code Sections 2.04.100 to 2.04.190 are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of Metro Code Sections 2.04.100 to 2.04.190 or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of Metro Code Sections 2.04.100 to 2.04.190, or the validity of their application to other persons or circumstances.

(b) Metro Code Sections 2.04.100 to 2.04.190 are intended, and should be construed, as establishing and requiring the maximum efforts at assuring ESB, MBE, and WBE participation in Metro contracting activities that is consistent with the United States and Oregon Constitutions and applicable federal and state law.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 19.)

(2.04.200-.290 Repealed Ord. 97-692A §22)

METRO DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR FEDERALLY-FUNDED CONTRACTS

2.04.300 Disadvantaged Business Enterprise Program (DBE Program) for Federally-Funded Contracts, Findings, Purpose and Authority

(a) It is the purpose of Metro Code Sections 2.04.300-.380 to establish and implement a program to encourage the utilization by Metro of disadvantaged businesses by creating for such businesses the maximum possible opportunity to compete for and participate in federally-funded Metro contracting activities. The DBE Program does not apply to locally-funded contracts, which are governed by 2.04.100 to 2.04.190.

(b) Metro Code Sections 2.04.300-.380 are intended to comply with all relevant federal regulations, including those adopted to implement Section (105)(f) of the Surface Transportation Assistance Act of 1982, relating to the participation by Minority Business Enterprises in Department of

Transportation programs, and Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991.

(c) Metro Code Sections 2.04.300-.380 shall be known and may be cited as the "Metro Disadvantaged Business Enterprise Program for Federally-Funded Contracts," hereinafter referred to as the "DBE Program."

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 23.)

2.04.305 Policy Statement

(a) Through the DBE Program, Metro:

(1) Expresses its strong commitment to provide maximum opportunity to disadvantaged businesses in contracting;

(2) Informs all employees, governmental agencies and the general public of its intent to implement this policy statement; and

(3) Assures conformity with applicable federal regulations as they exist or may be amended.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the projects, programs and services of Metro, in accordance with Title VI of the Civil Rights Act of 1964. Metro and Metro contractors will not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by the DBE Program shall apply to all Metro departments and project areas except as expressly provided in the DBE Program.

(d) The objectives of the DBE Program shall be:

(1) To assure that provisions of the DBE Program are adhered to by all Metro departments, contractors, employees and USDOT subrecipients and contractors; and

(2) To initiate and maintain efforts to increase DBE Program participation by disadvantaged businesses.

(e) Metro accepts and agrees to the statements of 49 CFR §23.43 (a)(1) and (2), and said statements shall be included in all USDOT agreements with USDOT subrecipients and in all USDOT-assisted contracts between Metro or USDOT subrecipients and any contractor.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 24.)

2.04.310 Definitions

For purposes of the DBE Program, the following definitions shall apply:

(a) "Applicant" means one who submits an application, request or plan to be approved by a USDOT official or by Metro as a condition to eligibility for Department of Transportation (USDOT) financial assistance; and "application" means such an application, request or plan.

(b) "Construction contract" means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.

(c) "Contract" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of the DBE Program a lease or a purchase order of $500.00 or more is a contract.

(d) "Contractor" means the one who participates, through a contract or subcontract, in the DBE Program and includes lessees.

(e) "Department or USDOT" means the United States Department of Transportation, including its operating elements.

(f) "Disadvantaged Business Enterprise or DBE" means a small business concern which is so certified by an authorized agency and:

(1) Which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more

socially or economically disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it.

(g) "Executive Department" means the State of Oregon's Executive Department or such state agency, department or entity to which has been delegated the responsibility to certify a Minority Business Enterprise, Women Business Enterprise, or a Disadvantaged Business Enterprise and to engage in related activities.

(h) "Joint venture" is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a DBE and non-DBE, the DBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. A joint venture of a DBE and a non-DBE must receive Metro approval prior to contract award to be counted toward any DBE contract goals.

(i) "Labor and materials contract" is a contract including a combination of service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.

(j) "Lessee" means a business or person that leases, or is negotiating to lease, property from a recipient or the department on the recipient's or department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.

(k) "Oregon Department of Transportation or ODOT" means the State of Oregon's Department of Transportation.

(l) "Personal services contract" means a contract for services of a personal or professional nature.

(m) "Procurement contract" means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.

(n) "Recipient" means any entity, public or private, to whom USDOT financial assistance is extended, directly or through another recipient for any program.

(o) "Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(p) "Socially or economically disadvantaged individuals or disadvantaged individuals" has the meaning established by ORS 200.005(2), (9), including the rebuttable presumption established by ORS 200.015(3), and the definitions supplied by ORS 200.005(7), (10).

(q) "USDOT-assisted contract" means any contract or modification of a contract between Metro and a contractor which is paid for in whole or in part with USDOT financial assistance.

(r) "USDOT financial assistance" means financial aid provided by USDOT or the United States Railroad Association to a recipient, but does not include a direct contract. The financial aid may be provided directly in the form of actual money, or indirectly in the form of guarantees authorized by statute as financial assistance services of federal personnel, title or other interest in real or personal property transferred for less than fair market value, or any other arrangement through which the recipient benefits financially, including licenses for the construction or operation of a deep water port.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 96-635B, Sec. 4.)

2.04.315 Notice to Contractors, Subcontractors and Subrecipients

Contractors, subcontractors and subrecipients of Metro accepting contracts or grants under the DBE Program which are USDOT-assisted shall be advised that failure to carry out the requirements set forth in 49 CFR 23.43(a) shall constitute a breach of contract and, after notification by Metro, may result in termination of the agreement or contract by Metro or such remedy as Metro deems appropriate.

(Ordinance No. 92-466A, Sec. 2.)

2.04.320 DBE Liaison Officer

(a) The Chief Operating Officer shall, by executive order, designate a DBE liaison officer and, if necessary, other staff adequate to administer the DBE Program. The DBE liaison officer shall report directly to the Chief Operating Officer on matters pertaining to the DBE Program.

(b) The DBE liaison officer shall be responsible for developing, managing and implementing the DBE Program, and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the DBE liaison officer, all Department Directors and program managers shall have responsibility to assure implementation of the DBE Program.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 25; Ordinance No. 02-966A, Sec. 1.)

2.04.325 Directory

A directory of DBEs as certified by ODOT or the Executive Department, as applicable, shall be maintained by the Liaison Officer to facilitate identifying such businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet DBE Program requirements.

(Ordinance No. 92-466A, Sec. 2.)

2.04.330 DBE-Owned Banks

Metro will seek to identify DBE-owned banks within the policies adopted by the Metro Council and make the greatest feasible use of their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on certified DBE banks.

(Ordinance No. 92-466A, Sec. 2.)

2.04.335 Affirmative Action and Equal Opportunity Procedures

Metro shall use affirmative action techniques to facilitate DBE and participation in contracting activities. These techniques include:

(a) Arranging solicitations, time for the presentation of bids, quantities specifications and delivery schedules so as to facilitate the participation of DBEs.

(b) Referring DBEs in need of management assistance to established agencies that provide direct management assistance to such businesses.

(c) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

(d) Distribution of copies of the DBE Program to organizations and individuals concerned with DBE programs.

(e) Periodic reviews with Department Directors to ensure that they are aware of the DBE Program goals and desired activities on their parts to facilitate reaching the goals. Additionally, departmental efforts toward and success in meeting DBE goals for department contracts shall be factors considered during annual performance evaluations of the Department Directors.

(f) Monitor and ensure that disadvantaged planning centers and likely DBE contractors are receiving requests for bids, proposals and quotes.

(g) Study the feasibility of certain USDOT-assisted contracts and procurements being set aside for DBE participation.

(h) Distribution of lists to potential DBE contractors of the types of goods and services which Metro regularly purchases.

(i) Advising potential DBE vendors that Metro does not certify DBEs, and directing them to ODOT until December 31, 1987, and, thereafter, to the Executive Department.

(j) Specifying purchases by generic title rather than specific brand name whenever feasible.

(k) Establishing an interdepartmental contract management committee which will meet regularly to monitor and discuss, among other issues, potential DBE participation in contracts. In an effort to become more knowledgeable regarding DBE resources, the committee shall also invite potential DBE contractors to attend selected meetings.

(l) Requiring that at least one DBE vendor or contractor be contacted for all contract awards which are not exempt from Metro's contract selection procedures and which are 1) for more than $500.00 but not more than $25,000.00 in the case of non-personal services contracts; and 2) for more than $2,500.00 but not more than $25,000.00 for personal services contracts. The liaison officer may waive this requirement if he/she determines that there are no DBEs on the certification list capable of providing the service or item. For contracts over the dollar amounts indicated in this section, all known DBEs in the business of providing the service(s) or item(s) required shall be mailed bid or proposal information.

(m) The Chief Operating Officer or his/her designee may establish and implement additional affirmative action techniques which are designed to facilitate participation of DBEs in Metro contracting activities.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 94-554B; Ordinance No. 02-966A, Sec. 1.)

2.04.340 Certification of Disadvantaged Business Eligibility

(a) To participate in the DBE Program as a DBE, contractors, subcontractors and joint ventures must have been certified by an authorized certifying agency as described in subsection (b) of this section.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather Metro will rely upon the certification and recertification processes of ODOT and will utilize ODOT's certification list until December 31, 1987, and, thereafter, the Executive Department's list in determining whether a prospective contractor or subcontractor is certified as a DBE. A prospective contractor or subcontractor must be certified as a DBE by one of the above agencies, as applicable, and appear on the respective certification list of said agency, prior to the pertinent bid opening or proposal submission date to be considered by Metro to be an eligible DBE and be counted toward meeting goals. Metro will adhere to the recertification rulings resulting from 105(f) or state law, as applicable.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to applicable law. However, such appeal shall not cause a delay in

any contract award by Metro. Decertification procedures for USDOT-assisted contractor or potential contractors will comply with the requirements of Appendix A "Section by Section Analysis" of the July 21, 1983, Federal Register, Vol. 45, No. 130, p. 45287, and will be administered by the agency which granted certification.

(d) Challenges to certification or to any presumption of social or economic disadvantage with regard to the USDOT-assisted portion of the DBE Program, as provided for in 49 CFR 23.69, shall conform to and be processed under the procedures prescribed by each agency indicated in paragraph (b) of this section. That challenge procedure provides that:

(1) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the certifying agency as a disadvantaged business. The challenge shall be made in writing to the recipient.

(2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

(3) The recipient shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged if the recipient determines:

(i) That there is no reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall so inform the challenging party in writing. This terminates the proceeding.

(ii) That there is reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall begin a proceeding as provided in

paragraphs (d), (4), (5) and (6) of this paragraph.

(4) The recipient shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the recipient, within a reasonable time, information sufficient to permit the recipient to evaluate his or her status as a socially and economically disadvantaged individual.

(5) The recipient shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The recipient shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The recipient shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.

(6) Following the informal hearing, the recipient shall make a final determination. The recipient shall inform the parties in writing of the final determination, setting forth the reasons for its decision.

(7) In making the determinations called for in paragraphs (d)(3)(5) and (6) of this paragraph, the recipient shall use the standards set forth in Appendix C of this subpart.

(8) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect. 49 CFR 23.69.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 02-966A, Sec. 1.)

2.04.345 Annual Disadvantaged Business Goals

(a) Metro Council shall, by resolution each August, establish annual DBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services contracts, procurement contracts and USDOT-assisted contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

(1) Projection of the number and types of contracts to be awarded by Metro;

(2) Projection of the number, expertise and types of DBEs likely to be available to compete for the contracts;

(3) Past results of Metro's efforts under the DBE Program; and

(4) Existing goals of other local USDOT recipients and their experience in meeting these goals.

(c) Annual goals for USDOT-assisted contracts must be approved by the United States Department of Transportation. 49 CFR §23.45(g)(3).

(d) Metro will publish notice that the USDOT-assisted contract goals are available for inspection when they are submitted to USDOT or other federal agencies. They will be made available for 30 days following publication of notice. Public comment will be accepted for 45 days following publication of the notice.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 26.)

2.04.350 Contract Goals

(a) The annual goals established for construction contracts shall apply as individual contract goals for construction contracts over $50,000.00.

(b) The liaison officer may set a contract goal for any contract other than construction contracts over $25,000.00. The setting of such contract goal shall be made in writing prior to the solicitation of bids for such contract. Contract goals for

contracts other than construction contracts over $50,000.00 shall be set at the discretion of the liaison officer and shall not be tied, necessarily, to the annual goal for such contract type.

(c) Even though no DBE goals are established at the time that bid/proposal documents are drafted, the liaison officer may direct the inclusion of a clause in any RFP or bid documents for any contract described in this section which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts, as that term is defined in Section 2.04.360, to achieve DBE participation in the same goal amount as the current annual goal for that contract type.

(d) Contract goals may be complied with pursuant to Section 2.04.360 or 2.04.375. The extent to which DBE participation will be counted toward contract goals is governed by the latter section.

(Ordinance No. 92-466A, Sec. 2.)

2.04.355 Contract Award Criteria

(a) To be eligible for award of contracts containing a DBE goal, prime contractors must either meet or exceed the specific goal for DBE participation, or prove that they have made good faith efforts to meet the goal prior to the time bids are opened or proposal are due. Bidders/Proposers are required to utilize the most current list of DBEs certified by the Executive Department in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.

(b) All invitations to bid or Request for Proposals on contracts for which goals have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they will comply with the contract goal or that they have made good faith efforts as defined in Section 2.04.360 to do so. To document the intent to meet the goals, all bidders and proposers shall complete and endorse a disadvantaged business program compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

(c) Agreements between a bidder/proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders/proposers shall, by the close of the next working day following bid opening (or proposal submission date when no public opening is had), submit to Metro detailed DBE utilization forms listing names of DBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five (5) working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed letters of agreement between the bidder/proposer and DBE subcontractors and suppliers to be utilized in performance of the contract. A sample letter of agreement will be provided by Metro. The DBE utilization forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that the DBE goals were not met but that good faith efforts were performed shall submit written evidence of such good faith efforts within two (2) working days of bid opening or proposal submission in accordance with Section 2.04.360. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will meet the goals or will show good faith efforts to meet the goals, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder or, for personal services contracts, the firm which scores second highest shall, within two (2) days of notice of such ineligibility of the low bidder, submit evidence of goal compliance or good faith effort as provided above. This process shall be repeated until a bidder or proposer is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(g) The liaison officer, at his/her discretion, may waive minor irregularities in a bidder's or proposer's compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law.

(Ordinance No. 92-466A, Sec. 2.)

2.04.360 Determination of Good Faith Efforts

(a) Bidders or Proposers on USDOT-assisted contracts to which DBE goals apply must, to be eligible for contract award, comply with the applicable contract goal or show that good faith efforts have been made to comply with the goal. Good faith efforts should include at least the following standards established in the amendment to 49 CFR §23.45(h), Appendix A, dated Monday, April 27, 1981. A showing of good faith efforts must include written evidence of at least the following:

(1) Attendance at any pre-solicitation or prebid meetings that were scheduled by Metro to inform disadvantaged business enterprises of contracting and subcontracting or material supply opportunities available on the project.

(2) Advertisement in trade association, general circulation, disadvantaged and trade-oriented, if any and through a disadvantaged-owned newspaper or disadvantaged-owned trade publication concerning the subcontracting or material supply opportunities at least 10 days before bids or proposals are due.

(3) Written notification to a reasonable number but no less than five DBE firms that their interest in the contract is solicited. Such efforts should include the segmenting of work to be subcontracted to the extent consistent with the size and capability of DBE firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from DBE firms, segmenting portions of the work and specifically describing, as accurately as possible, the portions of the work for which quotes or proposals are solicited from DBE firms and encouraging inquiries for further details. Letters that are general and do not describe specifically the portions of work for which quotes or proposals are desired are discouraged, as such letters generally do not bring responses. It is expected that such letters will be sent in a timely manner so as to allow DBE sufficient opportunity to develop quotes or proposals for the work described.

(4) Evidence of follow-up to initial solicitations of interest, including the following:

(A) The names, addresses, telephone numbers of all DBE contacted;

(B) A description of the information provided to DBE firms regarding the plans and specifications for portions of the work to be performed; and

(C) A statement of the reasons for non-utilization of DBE firms, if needed to meet the goal.

(5) Negotiation in good faith with DBE firms. The bidder shall not, without justifiable reason, reject as unsatisfactory bids prepared by any DBE firms.

(6) Where applicable, the bidder must provide advice and assistance to interested DBE firms in obtaining bonding, lines of credit or insurance required by Metro or the bidder.

(7) Overall, the bidder's efforts to obtain DBE participation must be reasonably expected to produce a level of participation sufficient to meet Metro's goals.

(8) The bidder must use the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Executive Department's Advocate for Minority and Women and Emerging Small Business that provide assistance in the recruitment and placement of DBEs.

(Ordinance No. 92-466A, Sec. 2.)

2.04.365 Replacement of DBE Subcontractors

Prime contractors shall not replace a DBE subcontractor with another subcontractor, either before contract award or during contract performance, without prior Metro approval. Prime contractors who replace a DBE subcontractor shall replace such DBE subcontractor with another certified DBE subcontractor or

make good faith efforts as described in the preceding section to do so.

(Ordinance No. 92-466A, Sec. 2.)

2.04.370 Records and Reports

(a) Metro shall develop and maintain a record keeping system to identify and assess DBE contract awards, prime contractors' progress in achieving goals and affirmative action efforts. Specifically, the following records will be maintained:

(1) Awards to DBEs by number, percentage and dollar amount;

(2) A description of the types of contracts awarded; and

(3) The extent to which goals were exceeded or not met and reasons therefor.

(b) All DBE records will be separately maintained. Required DBE information will be provided to federal agencies and administrators on request.

(c) The liaison officer shall prepare reports, at least semiannually, on DBE participation to include the following:

(1) The number of contracts awarded;

(2) Categories of contracts awarded;

(3) Dollar value of contracts awarded;

(4) Percentage of the dollar value of all contracts awarded to DBE firms in the reporting period; and

(5) The extent to which goals have been met or exceeded.

(Ordinance No. 92-466A, Sec. 2.)

2.04.375 Counting Disadvantaged Business Participation Toward Meeting Goals

(a) DBE participation shall be counted toward meeting the goals on each contract as follows:

(1) Subject to the limitations indicated in paragraphs (2) through (8) below, the total dollar value of a prime contract or subcontract to be performed by DBEs is counted toward the applicable goal for contract award purposes as well as annual goal compliance purposes.

(2) The total dollar value of a contract to a disadvantaged business owned and controlled by both disadvantaged males and non-disadvantaged females is counted toward the goals for disadvantaged businesses and women, respectively, in proportion to the percentage of ownership and control of each group in the business.

The total dollar value of a contract with a disadvantaged business owned and controlled by disadvantaged women is counted toward either the disadvantaged business goal or the goal for women, but not to both. Metro shall choose the goal to which the contract value is applied.

(3) Metro shall count toward its goals a portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the disadvantaged business partner in the joint venture.

(4) Metro shall count toward its goals only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a DBE is performing a commercially useful function, Metro shall evaluate the amount of work subcontracted, industry practices and other relevant factors.

(5) Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to Metro to rebut this

presumption. Metro's decision on the rebuttal of this presumption is subject to review by USDOT for USDOT-assisted contracts.

(6) A DBE which provides both labor and materials may count toward its disadvantaged business goals expenditures for materials and supplies obtained from other than DBE suppliers and manufacturers, provided that the DBE contractor assumes the actual and contractual responsibility for the provision of the materials and supplies.

(7) Metro shall count its entire expenditure to a DBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).

(8) When USDOT funds are passed-through by Metro to other agencies, any contracts made with those funds and any DBE participation in those contracts shall only be counted toward Metro's goals. Likewise, any USDOT funds passed-through to Metro from other agencies and then used for contracting shall count only toward that agency's goals. Project managers responsible for administration of pass-through agreements shall include the following language in those agreements:

(A) Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.

(B) DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors

shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of USDOT-assisted contracts.

(b) DBE participation shall be counted toward meeting annual goals as follows:

(1) Except as otherwise provided below, the total dollar value of any contract which is to be performed by a DBE is counted toward meeting annual goals.

(2) The provisions of paragraphs (a)(2) through (a)(8) of this section, pertaining to contract goals, shall apply equally to annual goals.

(Ordinance No. 92-466A, Sec. 2. Amended by Ordinance No. 97-692A, Sec. 27.)

2.04.380 Compliance and Enforcement

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this chapter and the contract and with any representation made by a contractor prior to contract award pertaining to DBE participation in the contract.

(b) The liaison officer may require, at any stage of contract completion, documented proof from the contractor of actual DBE participation.

(Ordinance No. 92-466A, Sec. 2.)

METRO'S SUSTAINABLE PROCUREMENT PROGRAM

2.04.500 Purpose and Intent

Metro's Sustainable Procurement Program is created to achieve the following:

(a) Ensure that Metro's procurement activities meet the Sustainability goals established by the Metro Council.

(b) Ensure that Metro’s procurement activities support the definition of Sustainability adopted by the Metro Council.

(c) Support a sustainable environment, economy, and community by:

(1) Reducing the environmental impact of Metro government operations and setting the standard for sustainable public purchasing in the region;
(2) Supporting businesses and markets located in the Portland Metro region; and
(3) Ensuring equitable inclusion of diverse members of our community in our Sustainable Procurement efforts.

Metro’s Sustainable Procurement Program applies to all purchases made by Metro.

(Ordinance No. 10-1247.)

2.04.510 Definitions

As used in Section 2.04.500 through the end of this chapter:

(a) "Certified Organic" means the item has been grown according to strict uniform standards that are verified by independent state or private organizations.

(b) "Contractor" means any person, group of persons, consultant, designing architect, association, partnership, corporation, or other business entity that has a contract with Metro (including suppliers) or serves in a subcontracting capacity with an entity having a contract with Metro for the provision of goods or services.

(c) "Designated Products" means Recovered and Sustainable Products designated in Metro’s Sustainable Procurement Administrative Rules.

(d) "Ecolabel" means a label that identifies overall environmental preference of a product or service within a specific product/service category based on Life Cycle Cost Assessment considerations and that is awarded Third Party Certification.

(e) "Fair Trade" means a trading partnership, based on dialogue, transparency and respect, which seeks greater equity and contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers.

(f) "Green Building Practices" means a whole-systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition, and renovation, and includes Third Party Certification.

(g) "Habitat Friendly" means development practices that reduce the impact of development on natural resources, look beyond the building envelope and focus on land development and site design that mimic nature's processes, and conserve the natural systems and hydrologic functions of a site.

(h) "Least Toxic" means that no additives that are chemicals of high concern to human or environmental health may constitute part of the product except at levels consistent with background levels in the environment.

(i) "Life Cycle Cost Assessment" means the comprehensive accounting of the total cost of ownership, including the initial costs, energy and operational costs, longevity and efficacy of service, and disposal costs.

(j) "Locally Available" means grown, manufactured, or assembled within 400 miles of the Metro Region or sold from a vendor located within 400 miles of the Metro Region.

(k) "Minimum Recovered Content Standards" means standards established by Metro’s Sustainable Procurement Administrative Rules specifying the minimum level of Recovered Material necessary for designated products to qualify as Recovered and Sustainable Products.

(l) "Post-Consumer Material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-Consumer Material is a part of the broader category of Recovered Material.

(m) "Practicable" means satisfactory in performance and available at a fair and reasonable price.

(n) “Pre-Consumer Material” means material or waste remaining after manufacture of a product.

(o) "Product Stewardship" means whoever designs, produces, sells, or uses a product takes responsibility for minimizing the product's environmental impact throughout all stages of the product’s life cycle.

(p) "Recovered Material" means waste material and by-products which have been recovered or diverted from solid waste and includes both Post-Consumer Material and manufacturing or Pre-Consumer Material.

(q) "Recovered Product" means a product manufactured using Recovered Material and meeting the Minimum Recovered Content Standards established by Metro’s Sustainable Procurement Administrative Rules.

(r) "Recycled Paper" means paper meeting the Minimum Recovered Content Standards established by Metro’s Sustainable Procurement Administrative Rules.

(s) “Supplier Diversity” means a Sustainable Business Practice that encourages the use of previously underutilized vendors as suppliers.

(t) "Sustainability" means using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.

(u) "Sustainable Procurement" means purchasing materials, products, and services in a manner that integrates fiscal responsibility, social equity, and community and environmental stewardship.

(v) "Sustainable Products" means products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider Life Cycle Cost Assessment.

(w) "Third Party Certification" means an independent, objective assessment of a service or product completed by someone other than the service provider or product manufacturer.

(Ordinance No. 10-1247.)

2.04.520 Metro's Sustainable Procurement Administrative Rules

The Chief Operating Officer shall establish Sustainable Procurement Administrative Rules consistent with this Section to implement the Sustainable Procurement Program. The Sustainable Procurement Administrative Rules shall include:

(a) Guidance on maintaining or referencing lists of preferred Recovered and Sustainable Products as Designated Products.

(b) Guidance for procurement of goods that meet the Sustainability goals established by the Metro Council and that include without limitation where available and Practicable the following attributes:

(1) Third Party Certification;

(2) Product Stewardship;

(3) Green Building Practices;

(4) Least Toxic;

(5) Waste Prevention and Reduction;

(6) Recovered Material;

(7) Habitat Friendly;

(8) Certified Organic;

(9) Greenhouse Gas Reduction;

(10) Locally Available;

(11) Supplier Diversity;

(12) Fair Trade; and

(13) Life Cycle Cost Assessment

(c) A Minimum Recovered Content Standard for Recycled Paper and Recovered Products.

(d) A schedule and process for implementation of the Sustainable Procurement Program and Administrative Rules.

(e) A schedule for reporting to the Metro Council on the status and performance of the Sustainable Procurement Program and Administrative Rules and the minimum requirements for the report, including the setting of goals to illustrate progress.

(f) A process for assigning Department personnel to evaluate whether it is Practicable to use a particular Recovered or Sustainable Product.

(g) A process for collecting data to evaluate the status and performance of the Sustainable Procurement Program and Administrative Rules.

(h) Direction to the Procurement Officer for revising procurement procedures to comply with the Sustainable Procurement Program and Administrative Rules.

(i) A plan for implementing the joint purchase of Recovered and Sustainable Products and Materials, within Metro and with other public agencies, to reduce the price of these goods.

(Ordinance No. 10-1247.)

2.04.530 Metro’s Sustainable Procurement Program Responsibilities

(a) The Chief Operating Officer shall support and implement Metro’s Sustainable Procurement Program and Administrative Rules.

(b) The Procurement Officer shall:

(1) Ensure that procurement procedures are revised for consistency with the Sustainable Procurement Program and Administrative Rules.

(2) Provide Departments with information to facilitate their evaluation and procurement of Recovered and Sustainable Products.

(3) Inform and advise Departments of their responsibilities under the Sustainable Procurement Program and Administrative Rules;

provide training on and ensure compliance with the same.

(4) Provide information to the Chief Operating Officer to assist with creating and revising Sustainable Procurement Administrative Rules to achieve Metro’s Sustainability goals.

(5) Ensure that Recovered and Sustainable Products are designated whenever Practicable.

(6) Revise existing procurement standards and specifications to eliminate, where Practicable, discrimination against the procurement of Sustainable Products.

(7) Transmit Sustainable Procurement Program and Administrative Rules to each Department.

(8) Establish a strong connection between Metro’s Sustainable Procurement Program and Metro’s ESB, MBE, and WBE Program.

(9) Ensure that all invitations to bid or requests for proposal comply with the Sustainable Procurement Program and Administrative Rules.

(10) Ensure that when considering bids and proposals submitted by Contractors, Metro evaluates compliance with the Sustainable Procurement Program and Administrative Rules.

(11) Develop a system for tracking Metro’s compliance with its Sustainable Procurement Program and Administrative Rules.

(12) Assist the Chief Operating Officer in compiling the report required in Section 2.04.540.

(c) Department Directors shall ensure that their departments comply with the Sustainable Procurement Program and Administrative Rules.

(Ordinance No. 10-1247.)

2.04.540 Report to Metro Council

Each year the Chief Operating Office shall submit a report to the Metro Council that details the status and performance of the Sustainable Procurement Program and Administrative Rules.

(Ordinance No. 10-1247.)

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CHAPTER 2.05

PROCEDURE FOR CONTESTED CASES

SECTION	TITLE
2.05.005	Contested Case Defined, Notice of Opportunity for Hearing, Service
2.05.007	Rights of Parties in Contested Cases
2.05.010	Immediate Suspension or Refusal to Renew a License or Permit, Notice of Opportunity for Hearing, Service
2.05.015	Orders When No Hearing Requested or Failure to Appear
2.05.025	Hearing
2.05.030	Evidentiary Rules
2.05.035	Proposed Orders in Contested Cases Other Than Personnel Discharges
2.05.040	Proposed Orders in Contested Cases on Personnel Discharges (repealed Ord. 02-967 §1)
2.05.042	Ex Parte Communications to the Hearings Officer
2.05.043	Ex Parte Communications to the Councilors
2.05.045	Final Orders in Contested Cases, Notification, Review
2.05.046	Motions
2.05.047	Service of Documents on All Parties
2.05.050	Reconsideration, Rehearing

2.05.005 Contested Case Defined, Notice of Opportunity for Hearing, Service

(a) A contested case exists whenever:

(1) Individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after a hearing at which specific parties are entitled to appear and be heard;

(2) Metro has discretion to suspend or revoke a right or privilege of a person; or

(3) There is a proceeding regarding a license, franchise or permit required to pursue any activity governed or regulated by Metro; or

(4) There is a proceeding in which Metro has directed by ordinance, rule or otherwise that the proceeding be conducted in accordance with contested case procedures.

(b) A contested case does not exist when a Metro action rests solely on the results of a test or inspection.

(c) Metro shall give notice to all parties in a contested case. The notice shall include:

(1) A statement of the party's right to request a hearing, or a statement of the time and place of the hearing;

(2) A statement of the authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes, ordinances or rules involved;

(4) A short and plain statement of the matters asserted, charged or proposed;

(5) A statement that the party may be represented by counsel at the hearing; and

(6) When applicable, a statement that if the party desires a hearing, Metro must be notified within a specified number of days.

(d) Unless the Council provides otherwise, the number of days within which Metro must be notified that the party desires a hearing shall be as follows:

(1) Within 30 days of the date of mailing of notice; or

(2) Within 60 days of the notification of refusal to issue a license, franchise or permit required to pursue any activity governed or regulated by Metro, if the refusal is based on grounds other than the results of a test or inspection; or

(3) Within 90 days of an immediate suspension or refusal to renew a license or franchise pursuant to Section 2.05.010 of these rules; or

(4) In the case of a personnel discharge, within 14 days of the employee's receipt of the Notice of discharge.

(e) The notice shall be served personally or by registered or certified mail.

(f) Metro may provide that notice in addition to that required by this section be given for specific types of contested case.

(Rule No. 79-3. Amended by Rule No. 81-5 and Ordinance No. 82-137, Sec. 2; Ordinance No. 02-967, Sec. 1.)

2.05.007 Rights of Parties in Contested Cases

(a) The following information shall be given to the parties before commencement of a contested case hearing:

(1) If a party is not represented by an attorney, a general description of the hearing procedure.

(2) Whether a record will be made of the proceeding and the manner of making the record and its availability to the parties.

(3) Whether an attorney will represent Metro in the matters to be heard and whether the parties ordinarily and customarily are represented by an attorney.

(4) The title and function of the person presiding at the hearing with respect to the decision process, including, but not limited to, the manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed, the effect of that person's determination, who makes the final determination on behalf of Metro, whether the person presiding at the hearing is or is not an employee, officer, or other representative of Metro and whether that person has the authority to make a final independent determination.

(5) Whether there exists an opportunity after the hearing and prior to the final determination or order of the agency to review and object to any proposed Findings of Fact, Conclusions of Law, summary of evidence or recommendations of the officer presiding at the hearing.

(6) A description of the appeal process from the determination or order of Metro.

(b) The information required in subsection (a) may be given in writing or orally before the commencement of the hearing.

(Rule No. 79-3. Amended by Rule No. 81-5 and Ordinance No. 82-137, Sec. 2; Ordinance No. 02-967, Sec. 1.)

2.05.010 Immediate Suspension or Refusal to Renew a License or Permit, Notice of Opportunity for Hearing, Service

(a) If Metro finds there is a serious danger to the public health or safety, it may suspend or refuse to renew a license or permit immediately.

(b) Metro shall give notice to the party upon immediate suspension or refusal to renew a license or permit. The notice shall include:

(1) A statement of the party's right to hearing.

(2) A statement of the authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, ordinances and rules involved.

(4) A short and plain statement of the matters asserted, charged or proposed.

(5) A statement that the party may be represented by counsel at the hearing.

(6) A statement that if the party demands a hearing Metro must be notified within 30 days of date of the notice.

(7) A statement giving the reason or reasons for the immediate action.

(8) The effective date of the suspension or refusal to renew the license or permit.

(c) The notice shall be served personally or by registered or certified mail.

(Rule No. 79-3. Amended by Ordinance No. 02-967, Sec. 1.)

2.05.015 Orders When No Hearing Requested or Failure to Appear

(a) When a party has been given an opportunity and fails to request a hearing within the specified time or fails to appear at the specified time and place of the hearing, Metro may enter an order which supports Metro action or an order denying the petition upon which the hearing was to be held.

(b) The order supporting Metro action shall set forth the material on which the action is based or the material shall be attached to and made a part of the order.

(Rule No. 79-3. Amended by Ordinance No. 02-967, Sec. 1.)

2.05.025 Hearing

(a) The hearing shall be conducted by, and shall be under the control of, the Council President or a hearings officer. Contested case hearings on amendments to the regional Urban Growth Boundary shall be before a hearings officer. The Council may from time to time approve and provide to the Chief Operating Officer a list of prospective hearings officers from which hearings officers may be appointed by the Chief Operating Officer. Unless the hearing is to be held before the Council, the hearings officer in a contested case shall be a member of the Oregon State Bar.

(b) In the case of a hearing on a personnel discharge, the employee shall be given the opportunity to select the hearings officer from a list of at least three prospective hearings officers approved by the Council.

(c) At the discretion of the Council President or the hearings officer, the hearing shall be conducted in the following order:

(1) Staff report, if any.

(2) Statement and evidence by Metro in support of its action, or by the petitioner in support of a petition.

(3) Statement and evidence of affected persons disputing Metro action or petition.

(4) Rebuttal testimony.

(d) The hearings officer, a Council member, the Chief Operating Officer or his/her designee, the Metro Attorney, and the affected parties shall have the right to question any witnesses. Cross-examination by parties shall be by submission of written questions to the Council President or hearings officer; provided, however, that cross-examination by parties may be oral, at the discretion of the Council President or hearings officer, if such questioning will not disrupt the proceedings.

(e) The hearing may be continued for a reasonable period as determined by the Council President or hearings officer.

(f) The Council President or hearings officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial testimony.

(g) Exhibits shall be marked and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by Metro as part of the record of the proceedings.

(h) A verbatim oral, written, or mechanical record shall be made of all the proceedings. Such verbatim record need not be transcribed unless necessary for Council or judicial review.

(i) Upon conclusion of the hearing, the record shall be closed and new evidence shall not be admissible thereafter; provided, however, that upon proper showing, the Council President or hearings officer may reopen the hearing for receipt of new evidence which could not have been introduced earlier and which is otherwise admissible under Section 2.05.030.

(Rule No. 79.3. Amended by Rule No. 81-5 and Ordinance No. 82-137, Sec. 4; Ordinance No. 02-967, Sec. 1.)

2.05.030 Evidentiary Rules

(a) Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All offered evidence, not objected to, will be received by the hearings officer subject to his/her power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the hearings officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.

(e) The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(Rule No. 79-3.)

2.05.035 Proposed Orders in Contested Cases Other than Personnel Discharges

(a) Within 30 days of a hearing before a hearings officer in a contested case other than a personnel discharge, the hearings officer shall prepare and submit a proposed order, together with the record compiled in the hearing, to the Council. The proposed order, including Findings of Fact and Conclusions of Law, shall be served upon the parties.

(b) Within seven (7) days of the release of the proposed order, the Chief Operating Officer shall mail notice to all parties of the date by which written exceptions to the proposed order must be filed. This shall be not less than 14 nor more than 21 days from the date notice of this deadline is mailed, unless otherwise agreed to by all parties. The proposed order and any exceptions received to it shall be forwarded to the Council of Metro for consideration at its next scheduled meeting at least two weeks after the deadline for filing exceptions.

The Council may, by majority vote, decide to consider objections received following the deadline established but must allow at least two weeks between the date the exception is filed and the date the Council reviews it. Only parties may file exceptions, and exceptions may address only issues raised in the hearing. Upon approval of the Council, parties who have filed written exceptions may present oral argument in support of the exceptions, and other parties shall be given the opportunity to orally rebut exceptions made. Oral argument shall be limited to the specific objections raised in the written exceptions.

(c) A party may, in addition to filing written exceptions, file a written request to submit evidence that was not available or offered at the hearing provided for in Code Section 2.05.025. A written request to submit additional evidence must explain why the information was not provided at the hearing and must demonstrate that such evidence meets the standards of Section 2.05.030 and would likely result in a different decision. Upon receipt of a written request to submit additional evidence, the Council shall:

(1) Refuse the request; or

(2) Remand the proceeding to the hearings officer for the limited purpose of receiving the new evidence and oral argument and rebuttal argument by the parties on the new evidence; or

(3) If the nature of the new evidence to be submitted is such that remand would serve no useful purpose,

proceed to hear and consider the evidence and argument and rebuttal from the parties on the evidence.

Requests to submit new evidence must be filed by the deadline for filing written exceptions established pursuant to Section 2.05.035(b), unless circumstances regarding the evidence preclude doing so.

(d) If a new hearing is granted in accordance with subsection (c)(2) of this section, the hearings officer shall within seven (7) days of the hearing serve upon all of the parties and forward to the Council a new proposed order in accordance with the provisions of Code Section 2.05.035(a).

(Rule No. 79-3. Amended by Rule No. 82.5; Ordinance No. 82-137, Sec. 5; Ordinance No. 86-203, Sec. 2 and 3; Ordinance No. 02-967, Sec. 1.)

2.05.042 Ex Parte Communications to the Hearings Officer

The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communication on a fact in issue made to the officer during the pendency of the proceeding. Parties shall, upon request, be given a reasonable opportunity to rebut such ex parte communications.

(Rule No. 81-5. Amended by Ordinance No. 82-137, Sec. 7.)

2.05.043 Ex Parte Communications to the Councilors

Councilors shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to a Councilor during review of a contested case. Parties shall, upon request, be given a reasonable opportunity to rebut such ex parte communications.

(Rule No. 81-5. Amended by Ordinance No. 82-137, Sec. 8.)

2.05.045 Final Orders in Contested Cases, Notification, Review

(a) Except as provided in subsection (c) of this section, the Council or Chief Operating Officer's decision in a contested case shall be adopted by a final order. Final orders in contested cases shall be in writing and shall include the following:

(1) Rulings on admissibility of offered evidence.

(2) Findings of Fact -- those matters which are either agreed upon as fact or which, when disputed, are determined by the fact finder, on substantial evidence, to be fact over contentions to the contrary.

(3) Conclusion(s) of Law -- applications of the controlling law to the facts found and legal results arising therefrom.

(4) The action taken by Metro as a result of the Findings of Fact and Conclusions of Law.

(b) Upon receipt of a proposed order and consideration of exceptions, the Council shall adopt the proposed order or revise or replace the findings or conclusions in a proposed order or remand the matter to the hearings officer. No written exceptions need be received on a revised or replaced order except on new evidence presented to the hearings officer on remand. Parties shall be given an opportunity to comment orally to the Council on a revised order.

(c) When the proposed order in a contested case necessitates the adoption of an ordinance, staff shall prepare an ordinance for Council adoption. The ordinance shall incorporate the rulings, findings and conclusions required by subsection (a) or (b) of this section. An ordinance adopted pursuant to this subsection shall, upon adoption, be considered the final order subject to judicial review.

(d) Parties to contested cases and their attorneys of record shall be served a copy of the final order. Parties shall be notified of their right to judicial review of the order.

(e) Final orders in cases other than on Urban Growth Boundary amendments shall be approved by a majority of a quorum of the Council.

(f) Final approval of a petition for an amendment of the Urban Growth Boundary shall be made by the adoption of an ordinance.

(Rule No. 79-3. Amended by Rule No. 81-5; Ordinance No. 82-137, Sec. 9; Ordinance No. 85-190, Sec. 1; Ordinance No. 86-203, Sec. 3; Ordinance No. 02-967, Sec. 1.)

2.05.046 Motions

(a) Unless these rules or applicable statutes or ordinances provide another form of application, a request for an order or

relief from the hearings officer or the Council shall be made by serving and filing a motion in writing for such order or relief.

(b) Parties shall submit all motions without oral argument unless otherwise directed by the hearings officer or the Council. The motion shall show proof of service on all opposing parties in accordance with Code Section 2.05.047.

(Rule No. 81-5.)

2.05.047 Service of Documents on All Parties

All documents, written correspondence or other material filed with or submitted to the hearings officer or the Council shall be served on all parties. Any document filed with or submitted to the hearings officer or the Council shall contain proof of service on all parties.

(Rule No. 81-5.)

2.05.050 Reconsideration, Rehearing

(a) A party may file a petition for reconsideration or rehearing on a final order with Metro within ten (10) days after the order is issued.

(b) The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.

(c) Metro may grant a reconsideration petition if sufficient reason therefor is made to appear. If the petition is granted, an amended order shall be entered. The Council may allow oral or written argument by the parties on the reconsideration petition.

(d) Metro may grant a rehearing petition if sufficient reason therefor is made to appear. The rehearing may be limited by Metro to specific matters. If a rehearing is held, an amended order shall be entered. Rehearings shall be held before the hearings officer who conducted the original hearing.

(e) If Metro does not act on the petition within the 60th day following the date the petition was filed, the petition shall be deemed denied.

(Rule No. 79-3. Amended by Rule No. 81-5; Ordinance No. 82-137, Sec. 10; Ordinance No. 02-967, Sec. 1.)

CHAPTER 2.07

ONE PERCENT FOR ART PROGRAM

SECTIONS	TITLE
2.07.010	Short Title
2.07.020	Definitions
2.07.030	Policy
2.07.040	Dedication
2.07.050	Ownership
2.07.060	Approvals
2.07.070	Implementation

2.07.010 Short Title

This ordinance shall be known as the "One Percent for Art Program" and may be so cited and pleaded and shall be referred to herein as "this program."

(Ordinance No. 87-215, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.07.020 Definitions

(a) "Construction cost" means budgeted construction cost, excluding design, engineering and administrative costs, cost for fees and permits, and indirect costs, such as interest during construction, land acquisition, relocation, demolition, street and utility, construction appurtenant to the main project, advertising and legal fees.

(b) "Council" means the Council of Metro.

(c) "Metro facility" means those facilities constructed at the direction of Metro.

(d) "Major construction project" ("Project") means projects for construction, reconstruction or major renovation of a Metro facility with an estimated construction cost of $100,000 or more. "Major construction project" does not include emergency work, minor alteration, ordinance repair or maintenance necessary to preserve a facility.

(Ordinance No. 87-215, Sec. 2. Amended by Ordinance No. 02-967, Sec. 1.)

2.07.030 Policy

The Council finds that it is appropriate in major construction projects that one percent of the construction cost of such projects be devoted to the acquisition and display of art to be integral to, displayed in, upon, or in proximity to the project, or capable of display in other Metro facilities which the Council deems appropriate.

These funds shall be expended on art which is of redeeming quality, advances public understanding of art, and enhances the aesthetic quality of the location which will be the site of works of art funded by these funds. The goal is to select and display art which represents the best in artistic skills and to encourage public dialogue and understanding of works of art.

(Ordinance No. 87-215, Sec. 3. Amended by Ordinance No. 02-967, Sec. 1.)

2.07.040 Dedication

One percent of the construction cost of major construction projects shall be set aside for the acquisition of art, unless the Council, following a public hearing, by resolution exempts the project from the One Percent Program. Such an exemption must be approved prior to or at the time a contract for an architect has been entered into, or prior to or at the time a contract to participate financially in a project is entered into by the Council, whichever is earlier.

Works of art may be integral to, or displayed in, upon or adjacent to the project, or capable of display in other Metro facilities.

The Council may order works of art removed or relocated if it finds that doing so is in keeping with the purposes of this ordinance.

The Council may determine to use contributed funds in addition to or in lieu of the monies raised for the construction costs.

(Ordinance No. 87-215, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.07.050 Ownership

All art acquired pursuant to this ordinance shall be acquired in the name of Metro, and title shall vest in Metro.

(Ordinance No. 87-215, Sec. 5. Amended by Ordinance No. 02-967, Sec. l.)

2.07.060 Approvals

Contracts brought forward under this program shall be approved in accordance with the Metro Code.

(Ordinance No. 87-215, Sec. 6.)

2.07.070 Implementation

The Council shall adopt by resolution guidelines for implementing this program. The guidelines shall be interpreted in such a manner to fully carry out the purposes of this ordinance.

(Ordinance No. 87-215, Sec. 7.)

CHAPTER 2.08

OFFICE OF METRO ATTORNEY

SECTIONS	TITLE
2.08.010	Creation of Office
2.08.020	Appointment and Removal
2.08.030	Powers
2.08.040	Duties
2.08.050	Records
2.08.060	Attorney-Client Relationship
2.08.070	Employment of Outside Legal Counsel
2.08.080	Opinions
2.08.090	Compensation
2.08.100	Vacancy

2.08.010 Creation of Office

(a) The office of Metro Attorney is hereby created pursuant to Metro Charter, Section 26 (2). The office of Metro Attorney shall include the Metro Attorney and such subordinate employees as the Council may provide. Subordinate attorneys shall serve at the pleasure of the Metro Attorney.

(b) Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from office, by the Metro Attorney of any of the Metro Attorney's subordinate employees.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.020 Appointment and Removal

(a) The Metro Attorney shall be appointed by the Council President subject to confirmation by the Council by resolution. The Council President shall involve the Council in the hiring process. The Metro Attorney shall be chosen solely on the basis of legal ability and qualifications with special reference to actual experience in or knowledge of the duties of the office of the Metro Attorney. At the time of the Metro Attorney's appointment, and at all times while holding office, the Metro Attorney shall be an active member in good standing of the Oregon State Bar and authorized to practice law in the State of Oregon and the Federal District Court for Oregon. During the

Metro Attorney's tenure of office the Metro Attorney shall reside within Metro's corporate boundaries.

(b) The Metro Attorney serves at the pleasure of the Council and is subject to removal by the Council President with the concurrence of the Council by resolution.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.030 Powers

The Metro Attorney shall have:

(a) General control and supervision of all civil actions and legal proceedings in which the district may be a party or may be interested.

(b) Full charge and control of all the legal business of all departments and commissions of the district, or of any office thereof, which requires the services of an attorney or counsel in order to protect the interests of the district. No district officer, board, council, commission, or department shall employ or be represented by any other counsel or attorney at law except as may be provided for in this chapter.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 02-953A, Sec. 1.)

2.08.040 Duties

The Metro Attorney shall have the following duties:

(a) Give legal advice and opinions orally and in writing and prepare documents and ordinances concerning any matter in which the district is interested in when requested by the Council, the Chief Operating Officer, the Auditor, or any Metro commission.

(b) Review and approve as to form all written contracts, ordinances, resolutions, executive orders, bonds, or other legally binding instruments of the district.

(c) Except as provided by any insurance policy obtained by the district, appear for, represent, and defend the district, and its departments, officers, commissions and employees and other persons entitled to representation under the Oregon Tort

Claims Act in all appropriate legal matters except legal matters involving persons who after investigation by the office of Metro Attorney, are found by the Metro Attorney to have been acting outside the scope of their employment or duties or to have committed malfeasance in office or willful or wanton neglect of duty.

(d) Submit to the Council, Chief Operating Officer and Auditor annually a formal report of all suits or actions in which the district is a party. The report shall state the name of each pending suit or action and a brief description of the suit or action and the status of the suit or action at the date of the report. The report shall also state the name of each suit or action closed during the preceding calendar year and a brief description of the suit or action and the disposition of the suit or action including the amount of any money paid by the district. At any time the Metro Attorney shall at the request of the Council, the Chief Operating Officer, or the Auditor, report on the status of any or all matters being handled by the Metro Attorney.

(e) Appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding in any court or tribunal when requested by the Council, the Chief Operating Officer, or any Metro commission when, in the discretion of the Metro Attorney, the same may be necessary or advisable to protect the interests of the district.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 89-316; Sec. 1; Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.050 Records

(a) The Metro Attorney shall have charge and custody of the office of the Metro Attorney and of all legal papers pertaining thereto, which shall be arranged and indexed in such convenient and orderly manner as to be at all times readily accessible.

(b) The Metro Attorney shall keep in the office a complete docket and set of pleadings of all suits, actions, or proceedings in which the district, the Council, the Chief Operating Officer, the Auditor, or any Metro commission or employee thereof is a party, pending in any court or tribunal, unless the suits, actions, or proceedings are conducted by outside legal counsel retained by the district in which case the

Metro Attorney shall keep those records as the Metro Attorney deems advisable.

(c) The Metro Attorney shall keep and record all significant written opinions furnished to Metro and shall keep an index thereof; and shall keep a file including all opinions and correspondence of the office.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.060 Attorney-Client Relationship

The relationship between the office of the Metro Attorney and Metro shall be an attorney-client relationship, with Metro being entitled to all benefits thereof. For the purpose of this chapter, Metro is recognized as a single entity whose elected officials and appointed officers and commissioners collectively perform and exercise Metro's duties and authority. The Metro Attorney shall maintain a proper attorney-client relationship with the elected officials of the district so long as such officials are acting within the scope of their official powers, duties and responsibilities.

(Ordinance No. 88-237, Sec.1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.070 Employment of Outside Legal Counsel

(a) When in the judgment of the Metro Attorney the Metro Attorney deems it necessary or appropriate to do so the Metro Attorney may employ outside legal counsel on behalf of Metro to handle such matters as the Metro Attorney deems advisable. Employment of outside legal counsel is subject to the general requirements of this chapter and Code Chapter 2.04 Metro Contract Policies.

(b) The Metro Attorney is authorized to waive on behalf of the district potential conflicts of interest of outside legal counsel retained by the district if the Metro Attorney determines the waiver to be in the district’s interest.

(Ordinance No. 88-237, Sec. 1. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.080 Opinions

(a) The Metro Attorney shall prepare formal written opinions regarding interpretations of federal and Oregon law, the Metro Charter, and Metro ordinances. These opinions shall be official guidance to the district except as superseded by courts of law, legislative action administrative rules, or actions of other superior tribunals or bodies.

(b) Neither the Chief Operating Officer nor any member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the Metro Attorney in the preparation of any requested opinion. The Metro Attorney shall not be removed because of the rendering of any opinion. Nothing in this section prohibits, however, the Chief Operating Officer or the Council from fully and freely discussing with the Metro Attorney the legal affairs of Metro.

(Ordinance No. 90-347A, Sec. 2. Amended by Ordinance No. 95-601B, Sec. 1; Ordinance No. 02-953A, Sec. 1.)

2.08.090 Compensation

The Metro Attorney shall receive such compensation as the Council shall fix from time to time by contract.

(Ordinance No. 02-953A, Sec. 1.)

2.08.100 Vacancy

Any vacancy in the office of the Metro Attorney shall be filled with all due speed. During any vacancy or incapacity, the Council President may appoint an acting Metro Attorney subject to confirmation by the Council by resolution.

(Ordinance No. 02-953A, Sec. 1.)

CHAPTER 2.09

CONTRACTOR'S BUSINESS LICENSE PROGRAM

Section	Title
2.09.010	Purpose and Authority
2.09.020	Definitions
2.09.030	Eligibility and License Issuance
2.09.040	Denial of Issuance
2.09.050	Exemptions
2.09.060	License Effect
2.09.070	Application for License
2.09.080	Application Contents
2.09.090	Validity of the License
2.09.100	Fee
2.09.110	License
2.09.120	Renewal
2.09.130	Revocation
2.09.140	Appeal of a Revoked License or Denied Application
2.09.150	Penalty
2.09.160	Distribution of Fees
2.09.170	Regulations

2.09.010 Purpose and Authority

(a) The purpose of this ordinance is to provide a procedure for Metro to issue a business license to contractors and landscape contracting businesses, establish a fee for the license, and distribute to participating jurisdictions the fees collected by Metro.

(b) The authority for Metro to issue business licenses to contractors and landscape contracting businesses, establish requirements for the issuance of the license, charge a fee for the license, receive reimbursement for administrative expenses incurred in carrying out this program, determine the number of residential building permits issued within the Metro Area, and distribute the fees to participating jurisdictions is granted by ORS 671.750 – 671.755 and ORS 701.013 - 701.015.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 2; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.020 Definitions

(a) "Contractor" has the meaning given under ORS 701.005.

(b) "Landscape contracting business" has the meaning given under ORS 671.520(2).

(c) "Contractor business license" means a document issued by Metro to a contractor or landscape contracting business that permits the contractor or landscape contracting business to conduct business in participating jurisdictions.

(d) "Contractor's business license fee" means any fee paid to Metro for the issuance of a contractor's business license.

(e) "Business license tax" means any fee paid by a contractor or landscape contracting business to a city or county for any form of license that is required by the city or county to conduct business in that jurisdiction. The term does not include any franchise fee or privilege tax imposed by a participating jurisdiction upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

(f) "Conducting business" means engaging directly, or through officers, agents and employees, in any activity in pursuit of gain.

(g) "Participating jurisdiction" means any city or county located wholly or partly within the boundaries of Metro that has a requirement for a contractor or landscape contracting business to obtain a business license to conduct business in that jurisdiction, and the fee for this license is not based on or measured by adjusted net income.

(h) "Principal place of business" means the location of the central administrative office in this state of a contractor or landscape contracting business conducting business in the Metro Area.

(i) "Residential building permit" means a building permit issued for the construction or alteration of a residential structure. A residential building permit does not mean an electrical permit, plumbing permit, or mechanical permit.

(j) "Residential structure" has the meaning given under ORS 701.005.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 3; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.030 Eligibility and License Issuance

Any contractor or landscape contracting business wishing to conduct business in any participating jurisdiction shall be issued a contractor's business license if subsections (a) through (e) are met by the contractor or landscape contracting business:

(a) Presents proof to Metro that the contractor or landscape contracting business has paid the business license tax imposed by each participating jurisdiction in which:

(1) The contractor or landscape contracting business has its principal place of business; and/or

(2) The contractor or landscape contracting business derives gross receipts of $250,000 or more from business conducted within the boundaries of a participating jurisdiction during the calendar year for which the business license tax is owed.

(b) Presents proof that the contractor or landscape contracting business is currently licensed by the State Construction Contractors Board or Landscape Contractors Board, respectively, unless exempted from the state licensing requirements by ORS Chapter 701 or 671.

(c) Completes an application as required by Section 2.09.070 of this chapter;

(d) Pays the contractor's business license fee established in Section 2.09.100 of this chapter; and

(e) Meets all other license requirements provided under this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 4; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437).

2.09.040 Denial of Issuance

(a) Metro shall refuse to issue a license for any one of the following reasons:

(1) Fraud, misrepresentation or false statement made in the applications at the time of application.

(2) Failure to present proof at the time of application that the applicant has met all other license requirements provided under this chapter.

(3) Failure to pay the contractor's business license fee established under Section 2.09.100 of this chapter.

(b) Notice of denial of an application shall be given in writing to the applicant setting forth the grounds of the denial. Such notice shall be mailed to the applicant at the address that appears on the application for the license. This action of denial may be appealed as provided in Section 2.09.140 of this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 5; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437).

2.09.050 Exemptions

(a) A contractor or landscape contracting business that is required to be licensed by a city within the boundaries of Metro that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a contractor's business license in lieu of that jurisdiction's business license.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 6; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437).

2.09.060 License Effect

Except as provided for in 2.09.050, a contractor or landscape contracting business issued a contractor’s business license by Metro may conduct business without any other business license in participating jurisdictions in which the contractor or landscape contracting business:

(1) Has no principal place of business;

(2) Has not derived gross receipts of $250,000 or more from business conducted within the boundary of the participating jurisdiction during the

calendar year for which the business license tax is owed.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 7; Ordinance No. 99-817A, Sec. 1; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.070 Application for License

To obtain a contractor's business license, a contractor or landscape contracting business must make application in person or by mail to Metro upon forms provided and prescribed by Metro. The completed application shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a contractor or landscape contracting business is issued a contractor's business license.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 8; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.080 Application Contents

Each application for a contractor's business license received by Metro shall contain:

(a) The name of the contractor or landscape contracting business making application.

(b) The name of a contact person.

(c) The address of the principal place of business of the contractor or landscape contracting business.

(d) The telephone number of the contractor or landscape contracting business.

(e) State of Oregon Construction Contractor's Board or State Landscape Contractor's Board license number unless exempted from state licensing requirements by ORS 701 or 671, respectively. If exemption is claimed, the contractor or landscape contracting business making application shall provide a statement of exemption on the form approved by Metro.

(f) Date of application.

(g) The signature of the contractor or landscape contracting business making the application.

(h) Proof that the contractor or landscape contracting business has paid the business license tax to the participating jurisdiction in which:

(1) The contractor or landscape contracting business has its principal place of business; and/or

(2) The contractor or landscape contracting business derives gross receipts of $250,000 or more from business conducted within the boundaries of a participating jurisdiction during the calendar year for which the business license tax is owed.

(i) Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 9; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.090 Validity of the License

(a) The license shall be valid from the date of issuance to the first day of the month in the following year; if issued after the middle of any month, the license shall be valid to the first day of the following month of that year. The license shall not be issued for a portion of a year.

(b) Before the expiration of the contractor's business license, Metro shall notify the contractor or landscape contracting business to whom the license was issued of the approaching expiration. Within 90 days prior to the expiration date, the notice shall be mailed to the contractor or landscape contracting business at the address shown on the original application for the license maintained by Metro.

(c) Metro is not required to notify the contractor or landscape contracting business of an approaching expiration if the contractor's business license has been revoked under Section 2.09.130 of this chapter, or if the contractor or landscape contracting business failed to notify Metro of a change of address.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 10; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.100 Fee

(a) The fee to be paid by any contractor for a contractor's business license is to be set by Metro and is nonrefundable.

(b) The fee to be paid by any landscape contracting business for a contractor’s business license is to be set by Metro and is non-refundable.

(c) The fees in (a) and (b) above are to be twice the average business license tax charged to contractors and landscape contracting businesses, respectively, in participating jurisdictions in Metro’s jurisdiction, plus Metro’s administrative expenses.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 11; Ordinance No. 99-817A, Sec. 2; and Ordinance No. 14-1437.)

2.09.110 License

Each contractor's business license issued under this chapter shall state upon its face the following:

(a) The name of the licensee.

(b) The address of the licensee.

(c) A unique license number established by Metro.

(d) The date of issuance.

(e) The date of expiration.

(f) Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 12 and Ordinance No. 02-967, Sec. 1)

2.09.120 Renewal

Each contractor or landscape contracting business requesting renewal of a license must make application, as described in Section 2.09.070 of this chapter, to Metro upon forms provided and prescribed by Metro. The completed application for renewal of the contractor's business license shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a renewal license is issued.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 14; Ordinance No. 02-967, Sec. 1; Amended by Ordinance No. 14-1437.)

2.09.130 Revocation

(a) A license issued under this chapter may be revoked by Metro, after notice, for any of the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for the license.

(2) Fraud, misrepresentation or false statement made in the course of carrying out the licensed activity.

(3) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(4) Failure to comply with the ordinances and resolutions of a jurisdiction within the boundaries of Metro in which the license holder is conducting business authorized by this license.

(b) Notice of revocation of a license shall be given in writing to the licensee setting forth the grounds of the complaint. Such notice shall be mailed by certified mail at least 10 working days before the date of revocation to the licensee at the address that appears on the application for the license being revoked. Revocation shall be effective 10 working days after notice of revocation.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 15; Ordinance No. 02-967, Sec. 1.)

2.09.140 Appeal of a Revoked License or Denied Application

Any contractor or landscape contracting business aggrieved by the action of Metro in denying an application for or revocation of a contractor's business license is entitled to appeal action under the provisions of Metro Code chapter 2.05.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 16; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.150 Penalty

Any contractor or landscape contracting business that fails to comply with or violates any provision of this chapter is subject to penalties under Section 1.01.110 of this Code. In the event that a provision of this chapter is violated by a firm or corporation, the officer or contractor or landscape contracting business responsible for the violation shall be subject to the penalty provided in Section 1.01.110 of this Code.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 17 and Ordinance No. 14-1437.)

2.09.160 Distribution of Fees

Metro shall distribute the contractor's business license fees collected by Metro under this chapter to participating jurisdictions after Metro has received reimbursement for administrative expenses incurred in carrying out the provisions of this chapter. At least once a year, each participating jurisdiction shall receive a share of the contractor's business license fees collected by Metro based on a ratio of the number of residential building permits issued by each participating jurisdiction to the total number of residential building permits issued during that year by all participating jurisdictions. Metro shall determine the number of residential building permits issued by participating jurisdictions as required to by ORS 701.015 and 671.755 or otherwise in Metro’s discretion if no data anticipated by statute is available.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 18; Ordinance No. 02-967, Sec. 1; and Ordinance No. 14-1437.)

2.09.170 Regulations

The Chief Operating Officer may establish such other contractor's business license regulations, not inconsistent with this chapter, as may be necessary and expedient.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 19 and Ordinance No. 02-967, Sec. 1.)

CHAPTER 2.12

OFFICE OF CITIZEN INVOLVEMENT

SECTIONS	TITLE
2.12.010	Creation and Purpose
2.12.020	Public Engagement Report
2.12.030	Approval of Bylaws (repealed Ord. 00-860A §2)

2.12.010 Creation and Purpose

There is hereby created an Office of Citizen Involvement consisting of such employees as the Council may provide. The purpose of the Office of Citizen Involvement is to develop and maintain programs and procedures to aid communication between citizens of Metro and the Metro Council.

(Ordinance No. 93-479A, Sec. 2. Amended by Ordinance No. 98-755; Ordinance No. 02-967, Sec. 1.)

2.12.020 Public Engagement Report

The Office of Citizen Involvement shall prepare an annual public engagement report evaluating Metro’s citizen involvement program and the prior year’s public engagement practices, measuring outcomes, and providing recommendations for the upcoming year. The report shall be presented to the Public Engagement Review Committee (PERC) for review, comment and direction, and shall thereafter be presented to the Metro Council in order to share best practices and upcoming plans for public engagement.

(Repealed Ord. 00-860A, Sec. 2; and Ordinance No. 12-1275A, Sec. 1)

CHAPTER 2.14

FACILITY-RELATED PARKING POLICY AND REGULATIONS

SECTIONS	TITLE
2.14.010	Purpose and Policy
2.14.020	Definitions
2.14.030	Parking Regulations

2.14.010 Purpose and Policy

The purpose of this chapter is to give policy direction as to the use and regulation of parking lots and structures at Metro regional facilities.

It is the policy of Metro to obtain maximum use of its regional facilities by assisting the public and Metro employees to gain access to and use of those facilities, consistent with their planned use and with other region-wide Metro policies and objectives.

Parking is an integral part of the regional facility that enables the facility to fulfill its mission and objectives. The administration of parking lots and structures is carried out as part of the administration of the facility.

Parking lots and structures are for the use of the visitors to the facility and Metro employees and staff assigned to the facilities. Metro may assist employees in gaining access to its regional facilities in a manner that promotes alternatives to the use of single occupancy motor vehicles.

Parking lots and structures may be operated in an entrepreneurial manner that generates revenues for Metro and its facilities.

Metro will work with appropriate local jurisdictions to ensure that design and operation of its parking lots and structures is consistent with this parking policy.

(Ordinance No. 95-586. Amended by Ordinance No. 99-807A, Sec. 2.)

2.14.020 Definitions

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) "Parking lot" means any Metro-owned or managed vehicle parking areas, including but not limited to the Oregon Convention Center parking lot, parking at the Metro Regional Center, Portland Metropolitan Exposition Center, facilities managed by the Metro Regional Parks and Greenspaces Department, or any other Metro-owned or operated parking facility, whether currently owned or managed or which Metro acquires or assumes responsibility hereafter.

(b) "Premises" mean any property, buildings or grounds which are either owned by Metro or which are the responsibility of Metro to manage.

(Ordinance No. 95-586. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 13-1320, Sec. 2)

2.14.030 Parking Regulations

The following rules shall govern all vehicles operated within the area of any Metro parking lot or Metro premises:

(a) It shall be a violation of this Code for the driver of any motor vehicle or bus to violate any legend or direction contained in any sign, signal, or marking now installed or hereafter installed upon any portion of Metro premises or Metro parking lot areas. Drivers of all vehicles shall drive in a careful and safe manner at all times and shall comply with the signals and directions of the police or security officers and all posted traffic signs. Blocking of entrances, driveways, walks, loading platforms, fire lanes, or fire hydrants is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the directions of posted signs, is prohibited.

(b) Metro or Metro ERC security personnel designated by the Chief Operating Officer as serving as a Metro parking patrol shall have the authority and duty to issue parking citations in accordance with subsection (c) of this section for a violation specified by subsection (a) of this section. The Metro parking patrol shall have no other police authority. Persons appointed as Metro parking patrol shall be special police officers of Metro. As special police officers, the Metro parking patrol personnel shall have authority to issue citations for violations of parking or non-moving traffic violations occurring on Metro premises or Metro parking lots, and particularly they shall have authority to issue citations. To the extent of the power and authority granted in this section, such personnel shall exercise full police power and authority.

(c) Parking Citations

(1) Form of citations. All parking citation forms used by the Metro parking patrol shall be in a form approved by the Metro Attorney and as issued by the Circuit Court for the State of Oregon for Multnomah County. Such parking citations shall, at a minimum, clearly state:

(A) The date, place, and nature of the charge;

(B) Time and place for the defendant's appearance in court;

(C) Name of the issuing officer;

(D) License number of the vehicle.

(2) Procedure for issuing citations. Any citation form issued pursuant to this Code section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other aspects, the procedure now provided by law in such cases shall be followed, but ORS 810.365 does not apply. The officer need not have observed the act of parking, but need only observe that the car was parked in violation of Metro Code.

(3) Use of parking citation as complaint. The original of the traffic citation form when completed to meet the minimum requirements of ORS 221.340 may serve as a complaint; other forms of parking complaints are prohibited.

(4) Citation form books issued by Circuit Court. Citation form books for parking violations shall be provided by the Circuit Court and upon request distributed to the Metro parking patrol officers who issue them.

(5) List of parking citations. A list of the parking citations issued by Metro parking patrol officers shall be forwarded to the Circuit Court within 24 hours.

(d) Person Responsible for Violation Charged by the Citation. The registered owner of the vehicle is prima facie responsible for the violation charged by the citation.

(Ordinance No. 95-586. Amended by Ordinance No. 02-967, Sec. 1.)

CHAPTER 2.15

METRO AUDITOR

SECTIONS	TITLE
2.15.010	Independence
2.15.020	Funding
2.15.025	Procedure for Submission of Metro Auditor's Budget
2.15.030	Audit Schedule
2.15.040	Scope of Audits
2.15.050	Access to Records and Property
2.15.060	Audit Reports
2.15.070	Responses to Audit Reports
2.15.080	External Audits
2.15.090	Report of Irregularities

2.15.010 Independence

The Office of Auditor is an elected position defined by the Metro Charter with specific duties, including the requirement to make continuous investigations of the operations of Metro. These investigations include financial and performance audits. The Auditor is required to make reports to the Metro Council with recommendations for action.

The Office of Auditor consists of the Metro Auditor and such subordinate employees as the Council may provide. The Auditor has neither a management nor a policy role; rather the Auditor provides independent and objective information about Metro programs and services. The functions of the Auditor include financial as well as performance audits of all departments, offices, commissions, activities and operations of Metro and reports regarding compliance with adopted laws, policies and sound fiscal practices.

The Office of Auditor will adhere to government auditing standards in conducting its work and will be considered independent as defined by those standards. The Auditor will strive to assure maximum coordination between its function and the audit needs of Metro, including the Council and Chief Operating Officer.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.15.020 Funding

In each annual budget sufficient funds and personnel shall be provided by the Metro Council to carry out the responsibilities specified herein.

(Ordinance No. 95-610A, Sec. 1.)

2.15.025 Procedure for Submission of Metro Auditor's Budget

The Auditor shall transmit the proposed budget for the Office of the Auditor to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the Auditor's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the Auditor's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the Auditor. The Auditor's budget shall be subject to review and approval by the Council, which shall make the final determination of cost allocations for any services provided.

(Ordinance No. 07-1164A, Sec. 3.)

2.15.030 Audit Schedule

Each year the Auditor shall submit an annual plan to the Metro Council for review and comment. The plan shall include the departments, commissions, activities, functions and offices scheduled for audit during the year. This plan may be amended during the year as deemed necessary by the Auditor. However, additional resources not authorized in the annual budget may not be utilized without Council approval. Additionally, the Auditor may spontaneously initiate and conduct any other audit deemed necessary to undertake with notification to the Council prior to conducting the audit.

In the selection of audit areas, the determination of audit scope and timing of audit work, the Auditor should consult with federal, state, local jurisdiction auditors, and independent auditors so the desirable audit coverage is provided and audit effort may be properly coordinated.

The Metro Council may request that the Auditor perform special audits that are not included in the annual audit schedule. Such audits will be considered by the Auditor taking into account available resources and audit priorities. The final decision regarding the audit schedule shall remain with the Auditor.

Special audit reports will be handled the same as regular audit reports, except that in personnel matters of a confidential nature, reporting on results may be limited to the Chief Operating Officer and the Council President.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.15.040 Scope of Audits

(a) The Auditor shall conduct financial and performance audits to independently determine whether:

(1) Activities and programs being implemented have been authorized by Metro Charter or Code, state law or applicable federal law regulations;

(2) Activities and programs are being conducted as prescribed by the Council to accomplish the objectives intended by the Metro Charter or Code, state law or applicable federal law or regulations;

(3) Activities or programs efficiently and effectively serve the purpose intended by the Metro Charter, Code, state law or applicable federal law or regulations;

(4) Activities and programs are being conducted and funds expended in compliance with applicable laws;

(5) Revenues are being properly collected, deposited and accounted for;

(6) Resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;

(7) Financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities, and that is necessary to establish a proper basis for evaluating the programs and activities;

(8) There are adequate operating and administrative procedures and practices, systems or accounting

internal control systems and internal management controls which have been established by management; or

(9) There are indications of fraud, abuse or illegal acts which need further investigation.

(b) Audits shall be conducted in accordance with government auditing standards applicable to financial and performance audits.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.15.050 Access to Records and Property

All officers and employees of Metro shall furnish the Auditor with requested information and records within their custody regarding powers, duties, activities, organization, property, financial transactions and method of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the Auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned information, then the Auditor may cause a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, excepting personal information, and every office having the custody of such records shall make a search and forward such requested exhibits to the Auditor.

(Ordinance No. 95-610A, Sec. 1.)

2.15.060 Audit Reports

Each audit conducted by the Auditor shall result in a written report. These final audit reports shall be made available to the public. The final audit report will include the written responses of the audited entity before it is released to the public. The Auditor shall provide the final report to the Council President prior to releasing the report to the public.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 02-967, Sec. l.)

2.15.070 Responses to Audit Reports

The Auditor shall furnish a final draft of each audit report to the audited entity for review and comment before it is released. The head of the audited entity may respond in writing to the Auditor's recommendations within 10 working days, or at the

Auditor's discretion, a longer time frame may be specified. If a timely response is not received, the Auditor shall so note at the time the report is released. The response must specify agreement with the audit findings and recommendations, or reasons for disagreement, as well as proposed plans for implementing solutions to identified problems and a proposed timetable to complete such activities.

(Ordinance No. 95-610A, Sec. 1.)

2.15.080 External Audits

Subject to the requirements of the Metro Code pertaining to contracts, the Metro Auditor shall appoint external certified public accountants to conduct certified financial statement audits, as specified by state or local law. The Metro Auditor will monitor the process for the annual financial audit with the advice of the Audit Committee provided for in Section 2.19.250. The Metro Auditor shall coordinate and monitor the conduct of and the responses to external financial statement audits. The Metro Auditor shall work toward the elimination of duplicative audit work through cooperation with state, federal and external auditors. The Metro Auditor may also, within budgeted appropriations, contract with other professionals to assist in the performance of the audit function. The Metro Auditor will coordinate and monitor audit related assistance provided by such professionals.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 10-1233, Sec. 1.)

2.15.090 Report of Irregularities

If the Auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates derelictions may be reasonably anticipated, the Auditor shall report the irregularities to the Council President of the Metro Council and the Chief Operating Officer. If the irregularity is potentially criminal in nature, the Auditor shall notify the district attorney, when appropriate, in addition to those previously cited.

(Ordinance No. 95-610A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

CHAPTER 2.16

NAMING OF FACILITIES

SECTIONS TITLE

2.16.010 Statement of Purpose
2.16.020 Policy for Naming of Facilities
2.16.030 Facility Names (Repealed by Ordinance No. 13-1319, Sec. 1)

2.16.010 Statement of Purpose

This chapter is established to provide a policy for the naming of facilities owned or operated by Metro. This policy includes facilities that are operated by a Metro department, commission, or other entity which has responsibility for facility operations.

(Ordinance No. 94-576A, Sec. 1.)

2.16.020 Policy for Naming of Facilities

(a) Facilities owned by Metro shall be named through adoption of a Resolution by the Metro Council. For purposes of this section, a "facility" shall be a building, which may contain one or more rooms, theaters, halls, offices, exhibits, etc., a group of buildings under common management with a shared mission, or a zoo, park, open space, trail, cemetery, golf course, boat ramp, or other outdoor area owned by Metro.

(b) The principal purpose of the name of a facility shall be to identify the facility’s function and purpose. When the Council deems it to be practicable and advisable, the name may also reflect the facility’s ownership, location, source or sources of funding for its construction, or the contribution of effort made or funds contributed by a person, persons, corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate toward its construction, acquisition, or operation.

(c) A Metro facility may be named after any living person who has not held elective office in Oregon. In the event Metro acquires ownership of a facility that was named after a living person by the facility’s former owner, the facility shall continue to bear that name.

(d) A Metro facility may be named for a deceased person in recognition of the person’s significant contribution of effort or money in support of the facility or its construction or mission, in conformance with an adopted policy, if any, of the Metro Council.

(e) A Metro facility other than the Oregon Zoo and the Oregon Convention Center may be named for a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate in recognition of that entity's significant contribution of effort or money in support of the facility or its construction, operation or mission, in conformance with an adopted policy, if any, of the Metro Council.

(f) Individual parts of a facility, including but not limited to theaters, exhibits, ballrooms, meeting rooms, halls, lobbies, and equipment, may be named after a person or persons, living or deceased, or after a corporation, firm, partnership, joint venture, association, governmental body, joint stock company, limited liability company, estate, trust, or syndicate, by adoption of a Resolution by the Metro Council.

(g) Facilities which Metro operates but does not own may not be named or re-named by Metro or a Metro commission. The owner(s) of such facilities shall retain authority for their naming or re-naming.

Ordinance No. 94-576A, Sec. 1. Amended by Ordinance No. 02-967,Sec. 1; Ordinance No. 03-994A, Sec. 4;Ordinance No. 13-1319, Sec. 1)

CHAPTER 2.17

CODE OF ETHICS; STATEMENTS OF ECONOMIC INTEREST; AND REQUIREMENTS FOR LOBBYISTS

SECTION	TITLE
2.17.010	Purpose and Policy
2.17.020	Definitions
2.17.025	Gift Exceptions
2.17.030	Gift Limit
2.17.040	Prohibited Use of Official Position
2.17.045	Honoraria
2.17.050	Conflicts of Interest
2.17.060	Methods of Handling Conflicts of Interests
2.17.070	Whistleblowing
2.17.080	Prohibition Against Doing Business With Metro Officials
2.17.90	Financial Interest in Public Contract
2.17.100	Regulation of Subsequent Employment of Metro Officials
	STATEMENTS OF ECONOMIC INTEREST/FINICIAL REPORTING
2.17.110	Financial Reporting Requirements
	LOBBYING
2.17.200	Registration of Lobbyists
2.17.210	Exemptions to Lobbyist Registration Requirements
2.17.215	Prohibited Lobbyist Conduct
2.17.220	Statements of Lobbying Expenses
2.17.230	Employers of Lobbyists Expense Statements
2.17.240	Verification of Reports, Registrations and Statements
2.17.245	False Statement or Misrepresentation by Lobbyist or Metro Official
2.17.250	Public Nature of Reports, Registrations and Statements
2.17.260	Sanctions for Violations

2.17.010 Purpose and Policy

(a) The Metro Council hereby declares that the purpose of this Chapter is to ensure that Metro serves the public and informs the public fully concerning its decision making. In accordance with such purposes, this Chapter establishes a Code of Ethics for Metro and requirements for lobbyists appearing before Metro.

(b) In adopting this Chapter, the Metro Council intends:

(1) To be consistent with and to add to current public policy established by the Oregon Legislative Assembly;

(2) To require Metro officials to operate under high ethical standards;

(3) To require Metro officials to treat their offices and positions as a public trust whose powers and resources are to be used for the benefit of the public and not for any personal benefit; and

(4) To require individuals and entities appearing before Metro to identify themselves and the interests they represent.

(c) It is the policy of Metro that all Metro officials and employees strictly comply with the Code of Ethics contained in ORS Chapter 244.

(Ordinance No. 99-795B, Sec. 1; and Ordinance No. 14-1343.)

2.17.020 Definitions

For the purposes of this Chapter, unless the context requires otherwise, the following terms shall have the meaning indicated,:

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(b) "Business with which the Metro official is associated" means:

(1) Any private business or closely held corporation of which the person or the person’s relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person’s relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth

$1,000 or more at any point in the preceding calendar year;

(2) Any publicly held corporation in which the person or the person's relative owns or has owned $100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(3) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(4) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(c) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(d) "Department Director" means any person employed by Metro in a position on a permanent basis which authority is to administer a department of Metro as designated by the Chief Operating Officer.

(e) "Doing business" means entering into a direct contractual relationship with a business with which the Metro official is associated.

(f) "Elected official" means any person elected or appointed as a member of the Metro Council, or the Auditor.

(g) "Employer of a lobbyist" means the individual or entity required to grant official authorization to a lobbyist to lobby on their behalf pursuant to Section 2.17.200(a)(2).

(h) "Ethics" means positive principles of conduct, some of which are also enforced by federal, state or other local law.

(i) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(1) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(2) For valuable consideration less than that required from others who are not public officials or candidates.

(3) “Gift” does not mean those items excluded by ORS 244.020(6)(b)".

(j) “Honorarium” means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event.

(k) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, resolution, amendment, nomination, appointment or report, or any matter which may be the subject of action by the Metro Council or any committee thereof.

(l) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more contracts, agreements, relationships, ordinances, resolutions, regulations, proposals or any other matters subject to the action or vote of the specific Public Official.

(m) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with Metro officials, solicitation of others to influence or attempt to influence legislative action or attempting to obtain the good will of Metro Councilors.

(n) "Lobbyist" means: (i) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying; and (ii) Any employee of a business, not-for-profit corporation, association, organization or other group, who engages in lobbying.

(o) "Metro" means all of Metro including any department or branch of Metro including any Metro commission or venue.

(p) "Metro Commissioner" means any person appointed to a position on the Metropolitan Exposition Recreation Commission.

(q) "Metro facilities" means meeting venues, meeting rooms, meeting areas or other Metro property generally available to the public.

(r) "Metro official" means any Department Director, manager, elected official or Metro commissioner.

(s) "Person" means any individual, business, association, corporation, organization or other group.

(t) "Public agency" means any governmental body, including but not limited to the Federal Government, the State of Oregon, any other state of the United States of America, or any public agency or municipal corporation thereof.

(u) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving Metro as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for such services.

(v) “Relative” means:

(1) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;

(2) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate;

(3) Any individual for whom the public official or candidate has a legal support obligation;

(4) Any individual for whom the public official provides benefits arising from the public official’s public employment or from whom the public official receives benefits arising from that individual’s employment; or

(5) Any individual from whom the candidate receives benefits arising from that individual’s employment.

(w) "Whistleblowing" means disclosing information pursuant to the protective provision of The Oregon Whistleblower Law (renumbered in 2001: ORS 659A.200 through 659A.224). In addition, whistleblowing shall include disclosing information regarding the violation of any provision of the Metro Charter or Metro Code.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. l; and Ordinance No. 14-1343.)

2.17.025 Gift Exceptions "Gift" does not include those exceptions set forth in ORS 244.020(6)(b).

(Ordinance No. 14-1343.)

2.17.030 Gift Limit

(a) During a calendar year, a public official, a candidate, or a relative or member of the household of the public official or candidate, may not solicit or receive, directly or indirectly, any Gift or Gifts with an aggregate value in excess of $50 from any single source that could reasonably be known to have a legislative or administrative interest, unless a specific exemption to the gift limit applies as set forth in ORS 244.020 (6)(b).

(b) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of $50.

(c) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of $50.

(Ordinance No. 14-1343.)

2.17.040 Prohibited Use of Official Position

(a) Except as provided in subsection (b) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the

public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(b) Subsection (a) of this section does not apply to:

(1) Any part of an official compensation package as determined by the public body that the public official serves;

(2) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042;

(3) Reimbursement of expenses;

(4) An unsolicited award for professional achievement;

(5) Gifts that do not exceed the limits specified in ORS 244.025 or Metro Code 2.17.030 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest;

(6) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest; or

(7) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(c) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(d) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(e) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(f) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(g) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed.

(Ordinance No. 14-1343.)

2.17.045 Honoraria

(a) Except as provided in subsection (c) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(b) Except as provided in subsection (c) of this section, a candidate may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(c) This section does not prohibit:

(1) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of $50 or less; or

(2) The solicitation or receipt of an honorarium for services performed in relation to the private

profession, occupation, avocation or expertise of the public official or candidate.

(Ordinance No. 14-1343.)

2.17.050 Conflicts of Interest

(a) “Actual conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person’s relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (b) of this section.

(b) “Potential conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person’s relative, or a business with which the person or the person’s relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(1) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position;

(2) Any action in the person’s official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person’s relative or business with which the person or the person’s relative is associated, is a member or is engaged; or

(3) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

(Ordinance No. 14-1343.)

2.17.060 Methods of Handling Conflicts of Interests

(a) Except as provided in subsection (b) of this section, when met with an actual or potential conflict of interest, a public official shall:

(1) If the public official is a member of the Metro Council or MERC Commission, announce publicly, pursuant to Council or Commission rules, the nature of the conflict before taking any action thereon in the capacity of a public official.

(2) If the public official is any other Metro Official subject to this chapter, notify in writing the person who supervises or appointed the public official to office of the nature of the conflict, and request that the appointing or supervising authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority or supervisor shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the supervisor appointing authority.

(b) A member of the Metro Council or MERC Commission, shall:

(1) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(2) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue; or

(B) If any public official’s vote is necessary to meet a requirement of a minimum number of

votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(c) Nothing in subsection (a) or (b) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(Ordinance No. 14-1343.)

2.17.070 Whistleblowing

(a) The Council specifically recognizes the provisions of The Oregon Whistleblower Law (ORS 659A.200 through 659A.224). The Council directs the Chief Operating Officer, pursuant to ORS 659A.221, to establish for Metro the specific regulations and procedures to implement the Oregon Whistleblower Law.

(b) Metro officials shall recognize whistle-blowing as appropriate and in accordance with state law. However, this provision shall not preclude taking disciplinary action against any Metro employee when it is appropriate to do so for independent reasons.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. l; and Ordinance No. 14-1343.)

2.17.080 Prohibition Against Doing Business With Metro Officials

(a) Except as provided for in subsections (b) and (c), Metro may not do business with any Metro official while the official is in office or within one year after the Metro official ceases to be a Metro official if the official had authority to exercise official responsibility in the matter. Any contract entered into in violation of this provision is void.

(b) Upon the request of the Chief Operating Officer or a Metro commission, the Council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

(1) It is in the best interests of Metro to do business with the Metro official;

(2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism; and

(3) Other factors exist which are explicitly found by the Council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.

(c) This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. l; and Ordinance No. 14-1343.)

2.17.090 Financial Interest in Public Contract

(a) Except as provided in subsection (c) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (b) of this section for two years after the date the contract was authorized.

(b) Subsection (a) of this section applies to a Metro contract that was authorized by:

(1) The person acting in his or her official capacity when the contract was authorized; or

(2) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(c) Subsection (a) of this section does not apply to a person who held his or her official position when the contract was authorized, but who did not participate in the authorization of the contract.

(Ordinance No. 14-1343.)

2.17.100 Regulation of Subsequent Employment Of Metro Officials

(a) A Metro Official shall not:

(1) Within one year after the Metro Official no longer works at Metro:

(A) Become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer who worked with Metro on matters over which the former Metro Official had authority; or

(2) Within two years after the Metro Official no longer works at Metro:

(A) Be a lobbyist for or appear as a representative before Metro related to any program, project, issue, or activity over which the person exercised authority as a Metro official; or

(B) Influence or try to influence the actions of the agency.

(b) A public official who has been an attorney with the Office of Metro Attorney shall not, within two years after the person ceases to hold the position, lobby or appear before Metro related to any matter over which the person exercised authority as an attorney at Metro.

(c) A public official who has been the Metro Chief Financial Officer or Deputy Chief Financial Officer shall not, within one year after leaving Metro:

(1) Accept employment from or be retained by any private entity with whom Metro negotiated or to whom either awarded a contract providing for payment by Metro of at least $25,000 in any single year during the time that person held that position;

(2) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed

at least $50,000 of investment moneys in any single year during the term of office of the treasurer; or

(3) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(d) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(1) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(2) Influence or try to influence the agency, board or commission; or

(3) Disclose any confidential information gained as a public official.

(e) A person who has been a member of the Metro Council may not receive money or any other consideration for lobbying Metro performed for two years after the date the person ceases to be a member of the Metro Council.

(f) Upon the request of the Chief Operating Officer or a Metro commission, the Council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

(1) It is in the best interests of Metro to do business with the Metro official;

(2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism; and

(3) Other factors exist which are explicitly found by the Council to benefit Metro that outweigh the policy considerations of ensuring that no

appearance of favoritism exists in the award of Metro contracts.

(g) This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

(Ordinance No. 14-1343.)

STATEMENTS OF ECONOMIC INTEREST / FINANCIAL REPORTING

2.17.110 Financial Reporting Requirements

(a) As required by ORS 244.050(m) and ORS 244.060, every member of the Metro Council, and the Chief Operating Officer, is required to file with the Oregon Government Ethics Commission a verified statement of economic interest on or before April 15 of each year, in compliance with ORS Chapter 244. A copy of the Statement of Economic Interest shall also be filed with the Metro Auditor at the time of filing with the appropriate state agency.

(b) In addition, the Statement of Economic Interest shall disclose the ownership of any real property outside the Metro boundary and within Multnomah, Clackamas or Washington County.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 11-1251, Sec. 1; and Ordinance No. 14-1343.)

LOBBYING

2.17.200 Registration of Lobbyists

(a) Within three (3) working days after exceeding the limit of time specified in Code Section 2.17.210(a)(5), each lobbyist shall register by filing with the Metro Council a statement containing the following information:

(1) The name, email address, telephone number, and address of the lobbyist;

(2) The name, email address, telephone number and address of each person or agency by whom the lobbyist is employed or in whose interest the lobbyist appears or works, a description of the trade, business, profession or area of endeavor of that person or agency, and a designation by

each such person or agency that the lobbyist is officially authorized to lobby for that person or agency;

(3) The name of any member of the Metro Council who is in any way employed by the lobbyist employer designated in paragraph (b) of this subsection or who is employed by the lobbyist or whether the lobbyist and member are associated with the same business. Ownership of stock in a publicly traded corporation in which a member of the Metro Council also owns stock is not a relationship which need be stated; and

(4) The general subject or subjects of the legislative interest of the lobbyist.

(b) The designation of official authorization to lobby shall be signed by an officer of each such corporation, association, organization or other group or by each individual by whom the lobbyist is employed or in whose interest the lobbyist appears or works.

(c) A lobbyist must revise the statements required by subsection (a) of this section if any of the information contained therein changes within 30 days of the change.

(d) (1) Except as provided in subsection (d)(2), a lobbyist registration expires on January 31 of the next odd-numbered year after the date of filing or refiling.

(2) A lobbyist registration filed on or after July 1 of any even-numbered year expires on January 31 of the second odd-numbered year after the date of filing or refiling.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 1; and Ordinance No. 14-1343.)

2.17.210 Exemptions to Lobbyist Registration Requirements

(a) The requirements of Code Section 2.17.210 through Code Section 217.240 do not apply to the following:

(1) News media or their employees or agents, who in the ordinary course of business publish or broad-

cast news items, editorials or other comments or paid advertisements which directly or indirectly urge legislative action if such persons engage in no other activities in connection with such legislative action;

(2) Any Metro official acting in an official capacity;

(3) Public officials acting in their official capacity as a member or employee of a public agency;

(4) Any individual who receives no additional consideration for lobbying and who limits lobbying activities solely to formal appearances to give testimony before Metro Council or any of its committees, and who, if the individual testifies, registers an appearance in the records of the Council or its committees; or

(5) Any person who spends not more than five (5) hours during any calendar quarter lobbying, excluding travel time.

(Ordinance No. 99-795B, Sec. 1; and Ordinance No. 14-1343.)

2.17.215 Prohibited Lobbyist Conduct

(a) A lobbyist may not instigate the introduction of any legislative action for the purpose of obtaining employment to lobby in opposition to the legislative action.

(b) A lobbyist may not attempt to influence the vote of any member of the Metro Council by the promise of financial support of the candidacy of the member, or by threat of financing opposition to the candidacy of the member, at any future election.

(c) A person may not lobby or offer to lobby for consideration any part of which is contingent upon the success of any lobbying activity.

(d) A Metro Official may not receive consideration other than from Metro for acting as a lobbyist in Oregon for Metro.

(Ordinance No. 14-1343.)

2.17.220 Statements of Lobbying Expenses

Any lobbyist who engages in any lobbying activities shall file with the Council by April 15 of each year a statement for the preceding calendar year showing:

(a) The total amount of all moneys expended for food, refreshments and entertainment by the lobbyist for the purpose of lobbying.

(b) The name of any Metro Official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds $50.

(c) Statements required by this section need not include amounts expended by the lobbyist for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses.

(d) If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.

(e) A statement required by this section shall include a copy of any notice provided to a public official or candidate under ORS 244.100.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 2; and Ordinance No. 14-1343.)

2.17.230 Employers of Lobbyists Expense Statements

(a) Any person on whose behalf a lobbyist was registered, or was required to register, with the Oregon Government Ethics Commission at any time during the calendar year shall file with the commission, according to the schedule described in ORS 171.752, a statement showing for the applicable reporting period:

(1) The total amount of all moneys expended for

lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services;

(2) The name of any legislative or executive official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying by the person, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds $50. This paragraph does not apply to information reported in compliance with ORS 171.745; and

(3) The name of each registered lobbyist or entity comprised of more than one lobbyist to whom the person paid moneys for lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services, and the total amount of moneys paid to that lobbyist or entity.

(b) A statement required under subsection (1) of this section shall include a copy of any notice provided to a public official or candidate under ORS 244.100.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 3; and Ordinance No. 14-1343.)

2.17.240 Verification of Reports, Registrations and Statements

(a) Each report, registration or statement required by this Chapter shall contain or be verified by a written declaration that it is made under the penalties of false swearing.

(b) No person shall willfully make and subscribe any document which contains or is verified by a written declaration for false swearing which the person does not believe to be true and correct to every matter.

(Ordinance No. 99-795B, Sec. 1; and Ordinance No. 14-1343.)

2.17.245 False Statement or Misrepresentation by Lobbyist or Metro Official

(a) No lobbyist or public official, as defined in ORS 244.020, shall make any false statement or misrepresentation to any legislative or executive official or, knowing a document to contain a false statement, cause a copy of such document to be received by a legislative or executive official without notifying such official in writing of the truth as prescribed in subsection (b) of this section.

(b) It is a defense to a charge of violation of subsection (a) of this section if the person who made the false statement or misrepresentation retracts the statement or misrepresentation and notifies the official in writing of the truth:

(1) In a manner showing complete and voluntary retraction of the prior false statement or misrepresentation; and

(2) Before the subject matter of the false statement or misrepresentation is submitted to a vote of a committee or the Metro Council or is relied upon by an executive official in an administrative hearing.

(c) As used in this section:

(1) "False statement or misrepresentation" means the intentional misrepresentation or misstatement of a material fact.

(2) "Material" means that which may have affected the course or outcome of any proceeding or transaction if known prior to the proceeding or transaction.

(Ordinance No. 14-1343.)

2.17.250 Public Nature of Reports, Registrations and Statements

All information submitted to the Oregon Ethics Commission or Council in any report, registration or statement required by this Chapter is a public record.

(Ordinance No. 99-795B, Sec. 1; and Ordinance No. 14-1343.)

2.17.260 Sanctions for Violations

In addition to any such penalties as otherwise may be provided by law, a person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not greater than $500.

However, no Metro official shall be subject to any sanction by Metro for a violation of this Chapter that resulted from the receipt of any gift, meal, or entertainment from any person who is not currently registered with Metro as a lobbyist or is not designated on a lobbyist's registration as the employer of a lobbyist.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 4; and Ordinance No. 14-1343.)

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CHAPTER 2.18

CAMPAIGN FINANCE REGULATION

SECTIONS TITLE

2.18.010 Purpose and Intent
2.18.020 Definitions
2.18.030 Additional Campaign Finance Reporting Requirements
2.18.040 Public Dissemination of Campaign Finance Reports

2.18.010 Purpose and Intent

The purpose and intent of this chapter is to provide additional campaign finance disclosure to the public that is consistent with the current campaign finance disclosure requirements in Oregon and federal laws. It is the intent of this chapter that it be construed as being a supplement to existing campaign finance regulations.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 08-1180, Sec. 1.)

2.18.020 Definitions

As used in this chapter, the following terms shall have the following meanings. Any word not specifically defined herein shall have the meaning defined in ORS 260.005.

(a) "Candidate" means a candidate for a Metro elected office.

(b) "Legislative or administrative interest" has the meaning defined in ORS 244.020.

(c) "Metro Elected Official" means any person elected or appointed as a member of the Metro Council and the Metro Auditor.

(d) "Metro Elected Office" means the seven (7) Metro Council positions and the Metro Auditor.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.18.030 Additional Campaign Finance Reporting Requirements

(a) Every Candidate and every Metro Elected Official who is a candidate for any public office shall file with the Chief

Operating Officer an electronic link to any campaign finance report required to be filed pursuant to ORS 260 or any applicable federal law. Campaign finance report electronic links shall be provided to the Chief Operating Officer within two (2) days after they became available from the state or federal filing officer.

(b) Prior to taking any action or voting on any matter in which any person who has a legislative or administrative interest has made a campaign contribution of $500 or more in the aggregate to the Metro Elected Official, the Metro Elected Official shall disclose the existence of the contribution on the public record, if the contribution has not been previously made available in a campaign finance report electronic link required to be filed pursuant to (a) above.

(c) A Metro Councilor shall make the disclosure of such contributions on the record required by (b) above immediately prior to voting or abstaining from voting on the matter. The Metro Auditor shall disclose such contributions by filing a written notice with the Chief Operating Officer or the Council prior to taking action on any such matter. In all cases, the disclosure shall include the name of the donor, the amount of the contribution and the nature of the donor's legislative or administrative interest in Metro.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1; and Ordinance No. 11-1251.)

2.18.040 Public Dissemination of Campaign Finance Reports

The Chief Operating Officer shall cause all campaign finance report electronic links to be posted on Metro's website. Website access to the campaign finance report links shall be maintained on the Metro website until the earlier of the January 1 following the election or the Metro elected official's term ends.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1; and Ordinance No. 11-1251.)

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CHAPTER 2.19

METRO ADVISORY COMMITTEES

SECTION	TITLE
2.19.010	Purpose and Intent
2.19.020	Definitions
2.19.030	Membership of the Advisory Committees
2.19.040	Advisory Committee Purpose and Authority
2.19.050	Advisory Committee Bylaws
2.19.060	Task Forces
2.19.070	Status of All Advisory Committees
2.19.080	Metro Policy Advisory Committee (MPAC)
2.19.090	Joint Policy Advisory Committee on Transportation (JPACT)
2.19.100	Public Engagement Review Committee (PERC)
2.19.110	Metro 401K Employee Salary Savings Plan Advisory Committee (401K ESSPAC)
2.19.120	Metro Central Station Community Enhancement Committee (MCSCE)
2.19.130	Metro Solid Waste Alternatives Advisory Committee (SWAAC)
2.19.140	North Portland Rehabilitation and Enhancement Committee (NPREC)
2.19.150	Investment Advisory Board (IAB)
2.19.160	Greenspaces Policy Advisory Committee (GPAC) (repealed Ord. 07-1157 §2)
2.19.170	Rate Review Committee (RRC)(repealed Ord. 09-1223 § 2)
2.19.180	Transportation Policy Alternatives Committee (TPAC)
2.19.190	Water Resources Policy Advisory Committee (WRPAC)
2.19.200	Tax Study Committee
2.19.210	Recycling Business Assistance Advisory Committee (RBAAC)
2.19.220	Natural Areas Program Performance Oversight Committee
2.19.230	Nature in Neighborhoods Capital Grants Review Committee
2.19.240	Oregon Zoo Bond Citizens’ Oversight Committee
2.19.250	Audit Committee (eff. 05/12/10)

2.19.010 Purpose and Intent

It is the purpose of this chapter to set forth general terms, conditions, functions and responsibility for all advisory committees (Advisory Committees) that have been created by

action of the Metro Council or are required pursuant to applicable provisions of the 1992 Metro Charter or Oregon or federal law. In general, this chapter applies to all Advisory Committees of Metro that are public bodies subject to Oregon's Public Meetings (ORS 192.610 et. seq.), whether or not the specific Advisory Committee is mentioned herein. It is not the intent to govern or adopt requirements for committees that are appointed by or report solely to individual Metro officers and which are therefore not subject to Oregon Public Meeting Law. In addition, this chapter does not apply to committees created by the Metro Council that consist solely of members of the Council or to any Metro Commission which exercises administrative functions. It is also not the intent of this chapter to amend any existing agreement with other governmental bodies, which have provisions for the creation and utilization of jointly appointed Advisory Committees.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. 1.)

2.19.020 Definitions

For the purposes of this chapter, unless the context requires otherwise, the following terms shall have the meanings indicated:

(a) "Advisory Committee" means any committee, task force or group, created by an official action of the Metro Council or Charter, including but not limited to, any public body or advisory group described in this chapter.

(b) "Appointment" means the formal selection of a person to serve as a member of an Advisory Committee.

(c) "Appointment authority" means the Council President or other entity specifically authorized to appoint an Advisory Committee member.

(d) "Confirmation" means the process by which the Metro Council approves the appointment of a member of an Advisory Committee.

(e) "JPACT" means Joint Policy Advisory Committee on Transportation.

(f) "PERC" means Public Engagement Review Committee.

(g) "MCSCE" means Metro Central Station Community Enhancement Committee.

(h) "MPAC" means Metro Policy Advisory Committee.

(i) "Nomination" means the formal submission to an appointing authority of a candidate for appointment to an Advisory Committee.

(j) "NPREC" means North Portland Rehabilitation and Enhancement Committee.

(k) "RBAAC" means Recycling Business Assistance Advisory Committee.

(l) "SWAAC" means Solid Waste Alternatives Advisory Committee.

(m) "Task Force" means any public body created by resolution or any official action of the Metro Council, which is not specifically defined in this chapter or any provision of the Metro Code.

(n) "Tax Study Committee" means before considering the imposition of any new tax or taxes, which do not require prior voter approval under the Metro Charter, the Tax Study Committee shall consult with and advise the Metro Council regarding adoption of these taxes.

(o) "TPAC" means Transportation Policy Alternatives Committee.

(p) "WRPAC" means Water Resources Policy Advisory Committee.

(q) "401K ESSPAC" means Metro 401K Employee Salary Savings Plan Advisory Committee.

(Ordinance No. 00-860A, Sec. 1; Ordinance No. 02-955A, Sec. l; Ordinance 12-1275A, Sec. 3; and Ordinance No. 14-1342.)

2.19.030 Membership of the Advisory Committees

(a) Membership In General.

(1) The Council President shall ensure that the recruitment and selection process for

appointments to vacant positions is open to all segments of the community and ensures a broad representation and diversity of membership. It is the policy of Metro not to discriminate with regard to race, color, religion, natural origin, sex, age, disability, sexual orientation, or mental or familial status in making appointments to Advisory Committees.

(2) The Council President is encouraged to streamline and standardize the recruitment and selection process, to a reasonable extent, and to facilitate a standing pool of volunteer candidates across the agency.

(3) Advisory committees may submit names to the Council President for inclusion in a list of interested and qualified candidates but nomination by an Advisory Committee may not be a requirement for appointment.

(b) Appointments and Confirmations.

(1) Except as it is specifically provided for membership of MPAC and JPACT, or for certain positions specified for elected officials, as set forth in this chapter, all members of all Advisory Committees shall be appointed by the Council President. All persons appointed by the Council President shall be subject to confirmation by the Council. A minimum of four (4) votes in favor of a specific appointment shall be necessary to confirm the appointment. Any person whose confirmation is defeated by four (4) or more votes in opposition, shall not be eligible for appointment to the same Advisory Committee during the succeeding twelve (12) months. The appointing authority may remove appointed members.

(2) Appointments of members to individual Advisory Committees may be subject to nominations made by specified entities to the appointing authority. Under no circumstance shall any Advisory Committee have the authority to nominate members to serve on the committee itself.

(3) Appointments and confirmation to Advisory Committees may be made with relevant geographical expertise or other criteria in mind. As a general rule, however, recruitment, appointment and confirmation of committee members will be conducted in a manner that attempts to reflect the demographic profile of the region as a whole.

(4) Alternate Members. Alternates may vote only in the absence of a specific regular member. Appointment and confirmation of alternates shall be subject to the same requirements that apply to regular members.

(c) Terms.

(1) All appointments made by the Council President shall be for a term of two (2) years or to fill a vacancy in the remaining portion of a term not to exceed two (2) years.

(2) No person may be appointed to serve more than two (2) consecutive full two (2) year terms on the same committee nor may any person be appointed to fill more than one partial term on any one committee.

(3) The limitations on terms set forth in subsection (2) shall not apply to:

(A) Employees of public agencies serving as the representative of their public employer; or

(B) Representatives of associations, cooperatives, or other non-profit groups, provided such group continues to renominate the designated representative every two years.

(4) Members shall continue to serve until their successor is appointed and confirmed.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-960; Ordinance No. 02-955A, Sec. l.)

2.19.040 Advisory Committee Purpose and Authority

The purpose and authority of each Advisory Committee shall be limited to matters specified in the action creating the committee and other matters specifically authorized by action of the Metro Council or other provisions of applicable law.

(Ordinance No. 00-860A, Sec. 1.)

2.19.050 Advisory Committee Bylaws

Each Advisory Committee may adopt bylaws governing the Advisory Committee's functions and procedures. Bylaws may not govern the membership or authority of any Advisory Committee. Unless specifically authorized by the Council for any specific Advisory Committee, Advisory Committees shall function as committees of the whole and may not appoint sub-committees or otherwise create any advisory body that constitutes a public body pursuant to Oregon Public Meeting law. However, sub-committees of limited duration may be created as provided in Section 2.19.070(d).

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.060 Task Forces

Task Forces are all Advisory Committees created by Metro Council action that have not been specifically provided for in a provision of the Metro Code. All Task Forces are of limited duration and the existence of any Task Force shall terminate one (1) year after its creation, unless specifically renewed and re-authorized by Metro Council action. However, in no circumstance, may a Task Force may be continued for more than three (3) years unless authorized by a duly adopted ordinance, which shall be codified.

(Ordinance No. 00-860A, Sec. 1.)

2.19.070 Status of All Advisory Committees

(a) MPAC, JPACT, and PERC are Advisory Committees that have permanent and continuing existence. They shall report directly to the Council and the Council President. MPAC and PERC were created by the Metro Charter. JPACT was created pursuant to federal law and Executive Order of the Governor of Oregon. The Metro Council shall provide for these committees in the annual budget. The Chief Operating Officer shall provide

reasonable staff support for these three (3) committees from any legally available and budgeted resources.

(b) All other Advisory Committees authorized by this chapter or other provisions of Metro Code shall continue in active status only so long as the Metro Council specifically provides budgeted resources to support the committee's functions. All committees shall operate on a fiscal year basis, July 1 to June 30. In any fiscal year that Metro Council fails to authorize budgeted resources for any committee, that committee shall be in inactive status and shall not meet.

(c) Task Forces may be created by Metro Council adopted resolutions, but shall be of limited duration and shall not meet unless the Metro Council has identified specific resources for support within the fiscal year budget at the time the Task Force is created and for any subsequent fiscal year. No Task Force may be re-authorized or continued without the Metro Council identifying resources necessary to support its function. The purpose of the Task Force shall be clearly defined in the authorizing resolution.

(d) Subcommittees may be created by specific action of Advisory Committees provided that the authorization for any subcommittee may not extend beyond the end of any fiscal year. Any Advisory Committee authorizing or re-authorizing any subcommittee shall identify how the subcommittee will function within the limitation of the budget resources provided to the committee.

(e) This chapter does not apply to the Smith and Bybee Lakes Management Committee, the Portland Center for Performing Arts Advisory Committee or any other Advisory Committee created or authorized by an agreement between Metro and another government.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l; and Ordinance No. 12-1275A, Sec. 4.)

2.19.080 Metro Policy Advisory Committee (MPAC)

(a) Purpose. The purpose of MPAC is to advise the Metro Council and perform the duties assigned to it by the Metro Charter and to perform other duties that the Metro Council shall prescribe.

(b) Membership. The members of MPAC include:

(1) Voting Members:

Multnomah County Commission	1
Second Largest City in Multnomah County	1
Other Cities in Multnomah County	1
Special Districts in Multnomah County	1
Citizen of Multnomah County	1
City of Portland	2
Clackamas County Commission	1
Largest City in Clackamas County	1
Second Largest City in Clackamas County	1
Other Cities in Clackamas County	1
Special Districts in Clackamas County	1
Citizen of Clackamas County	1
Washington County Commission	1
Largest City in Washington County	1
Second Largest City in Washington County	1
Other Cities in Washington County	1
Special Districts in Washington County	1
Citizen of Washington County	1
Tri-Met	1
Governing body of a school district	1
TOTAL	21

(2) Non-voting Members:

Oregon Dept. of Land Conservation and Development	1
Clark County	1
City of Vancouver	1
Port of Portland	1
City in Clackamas County outside UGB	1
City in Washington County outside UGB	1
TOTAL	6

(c) MPAC may provide in its bylaws for the creation of a Technical Advisory Committee, which may make recommendations to MPAC.

(d) A vote of both a majority of the MPAC members and a majority of all councilors may change the composition of MPAC at any time. The Council action shall be in the form of an ordinance and shall amend this code section. The MPAC bylaws shall govern the terms of its members.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. 1; Ordinance No. 07-1151, Sec. 1.)

2.19.090 Joint Policy Advisory Committee on Transportation (JPACT)

(a) Purpose. The purpose of JPACT is to advise the Metro Council and perform the duties assigned to it by Oregon and Federal law and the Metro Charter and to perform other duties that the Metro Council shall prescribe.

(b) Membership. The members of JPACT include representatives of the following jurisdictions and agencies:

City of Portland	1
Multnomah County	1
Washington County	1
Clackamas County	1
Cities of Multnomah County	1
Cities of Washington County	1
Cities of Clackamas County	1
Oregon Department of Transportation	1
Tri-Met	1
Port of Portland	1
Department of Environmental Quality	1
Metropolitan Service District (Metro)	3
State of Washington	3
TOTAL	17

(c) The composition, authority and duties of JPACT and JPACT's bylaws may only be changed as provided by applicable law.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.100 Public Engagement Review Committee (PERC)

(a) Purpose. The purpose of the PERC is to advise the Metro Council on the development and maintenance of programs and procedures to aid communication between the public and the Metro Council. PERC will advise the Office of Citizen Involvement (OCI) and the Metro Council, and perform the duties assigned to it by the Metro Charter and other related duties that the Metro Council may prescribe.

(b) Membership. The PERC consists of at least nine (9) members as follows:

(1) At least three (3) at large representatives from the region, each of whom may be appointed for either a one, two or three year term, subject to the limitations in Chapter 2.19.030(c) (2) on serving more than two (2) consectutive terms.

(2) At least three (3) representatives appointed from nominees of community associations, cooperatives, or other nonprofit groups in the region, each of whom may be appointed for either a one, two or three year term. Notwithstanding Chapter 2.19.030(c)(3)(B), representatives appointed from these groups shall be subject to the limitations on serving more than two (2) consecutive terms as provided in Chapter 2.19.030(c)(2).

(3) One (1) representative who is a county employee from each of Clackamas, Multnomah, and Washington Counties (for a total of three (3), for term lengths determined by the appointing jurisdiction. Each county will nominate an employee whose duties with the county are in a public engagement capacity. A county may alternatively nominate an employee of a local government entity (such as a city or special district) within such county whose duties with such entity are in a public engagement capacity, with the consent of the entity’s administrator.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No 02-947A; Ordinance No. 02-955A, Sec. 1; Ordinance No. 12-1275A, Sec. 5; and Ordinance 12-1294, Sec. 1.)

2.19.110 Metro 401K Employee Salary Savings Plan Advisory Committee (401K ESSPAC)

(a) Purpose. Metro established a Salary Savings Plan and Trust ("Plan") effective July 1, 1985. The purpose of Metro's 401K ESSPAC is to give instructions to the nondiscretionary Trustee, with respect to all matters concerning the Plan.

(b) Membership. The 401K ESSPAC consists of a five-person advisory/administrative committee.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.120 Metro Central Station Community Enhancement Committee (MCSCE)

(a) Purpose. It is the policy of the district to support a community enhancement program in the area of Metro Central Station, 6161 N.W. 61st Avenue, in Portland, Oregon.

(b) Membership. MCSCE consists of seven members to be appointed and serve terms as follows:

(1) Six members to be appointed by the Council President subject to confirmation by the council. The Council President shall make appointments as follows:

(A) One member shall be appointed from a list of nominees submitted by the Forest Park Neighborhood Association.

(B) One member shall be appointed from a list of nominees submitted by the Friends of Cathedral Park.

(C) One member shall be appointed from a list of nominees submitted by the Linnton Neighborhood Association.

(D) One member shall be appointed from a list of nominees submitted by the Northwest District Neighborhood Association.

(E) One member shall be appointed from a list of nominees submitted by the Northwest Industrial Neighborhood Association.

(F) One member shall be appointed from a list or lists of nominees submitted by environmental organizations that have or will have an interest in the enhancement area.

(2) MCSCE shall be chaired by the Metro Councilor representing the Council district in which the Metro Central Station is located.

(3) In the case of a vacancy in a non-council position on the committee, the Council President shall solicit nominations from the same organizations that were eligible to submit nominations for the original appointment.

(4) In all instances, the Council President may reject all nominations for a non-council position on the committee, and request that new nominations be submitted by the affected group.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.130 Metro Solid Waste Alternatives Advisory Committee (SWAAC)

(a) Purpose. The purpose of the Metro Solid Waste Alternatives Advisory Committee (SWAAC) is to develop policy options that, if implemented, would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the system through which the region's solid waste is managed. For the purpose of this Section, the term sustainability is as defined in Metro Council Resolution No. 08-3931.

(b) Membership. Members are categorized as follows:

(1) Regular Voting Members:

Jurisdictions with a population under 50,000	3
Jurisdictions with a population between 50,000 and 500,000	3
Jurisdiction with a population over 500,000	1
Total Local Government Members:	7

(2) Non-Voting Members:

Oregon Department of Environmental Quality	1
Non Governmental	1
Solid Waste Industry	3
Chair, Metro	1

Total Non-Voting Members:	6
TOTAL MEMBERS	13

(c) Appointment of Members.

(1) Local government members shall be nominated by a jurisdiction's presiding executive, appointed by the Metro Council President, and subject to confirmation by the Metro Council. In making the local government appointments, the Metro Council President will seek members directly involved in solid waste regulation or oversight and those involved in resource conservation.

(2) The Oregon Department of Environmental Quality (DEQ) member shall be nominated by DEQ's presiding executive, appointed by the Metro Council President, and subject to confirmation by the Metro Council.

(3) The Metro member shall be nominated by the Chief Operating Officer, appointed by the Metro Council President, and subject to confirmation by the Metro Council. The Chief Operating Officer also shall nominate an alternate Metro member who can serve when the confirmed member is unavailable.

(4) The remaining non-voting members shall be nominated through a public application process, appointed by the Metro Council President, and subject to confirmation by the Metro Council.

(d) Membership.

(1) Terms of Office.

(a) The local government members shall serve for a term of two (2) years. A member may be reappointed for additional terms through the process set forth above.

(b) The DEQ member shall serve until a replacement is nominated by the DEQ executive.

(c) The Metro member shall serve until a replacement is nominated by the Chief Operating Officer.

(d) The remaining non-voting members shall serve for a term of two (2) years. A non-voting member in this category may serve for a second consecutive two (2) year term.

(2) Meetings. SWAAC shall meet on a schedule determined by the Chairperson, with no fewer than two meetings per calendar year. The Chairperson shall schedule additional meetings as needed to respond to requests from the Metro Council for analysis of particular issues.

(3) Attendance. Members should be present at and participate in all regular meetings. Members who are absent for more than one regular meeting in a calendar year may be asked by the Council President to resign.

(4) Local government. For the members from jurisdictions with a population under 50,000, the Metro Council shall confirm at least one member each from a community west and east of the Willamette River. A County's population includes only those residents of the County's unincorporated areas.

(5) Solid Waste Industry. Solid Waste Industry members shall include persons involved in the collection, transfer, processing, disposal, or recycling of Solid Waste generated in the Metro Region.

(6) Non Governmental. The Non Governmental member shall be from a non-profit organization whose mission related to advancing sustainability in the Metro Region.

(e) Chair. The Chairperson of SWAAC shall be the Metro member or, in the Metro's member's absence, the Metro alternate member.

(f) Reports to Council. SWAAC shall include a summary of the minority opinions of voting and non-voting members when

describing the policy options that it recommends to the Metro Council for consideration.

(g) Subcommittees. SWAAC may establish subcommittees of a limited and defined duration. Membership composition shall be determined by SWAAC and may include individuals who are not members of the Committee. All such subcommittees shall report to SWAAC.

(Ordinance No. 00-860A, Sec. 1; Ordinance No. 02-960; Ordinance No. 02-955A, Sec. 1; Ordinance No. 09-1222A; Ordinance No. 14-1342; and Ordinance No. 14-1342.)

2.19.140 North Portland Rehabilitation and Enhancement Committee (NPREC)

(a) Purpose. The purpose of the North Portland Rehabilitation and Enhancement Committee (NPREC) is to make recommendations to the Metro Council regarding policies and the administration of the rehabilitation and enhancement program for the North Portland Area to include as follows:

(1) Specify the boundaries of the area to be rehabilitated and enhanced;

(2) Criteria for determining how funds will be used for rehabilitation and enhancement; and

(3) Continuing public involvement and recommending projects for funding.

(b) Membership. The NPREC shall be composed of 8 members:

(1) One (1) member shall be the Metro Councilor, whose district includes the site of the former St. Johns Landfill.

(2) Seven (7) members appointed by the Council President. One member each shall reside within the following neighborhood boundaries, which neighborhood boundaries are determined by the City of Portland:

(A) St. Johns
(B) Cathedral Park
(C) Portsmouth
(D) Overlook

(E) Arbor Lodge
(F) Kenton
(G) University Park

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.150 Investment Advisory Board (IAB)

(a) Purpose. An Investment Advisory Board is required by Oregon law. The IAB's purpose, membership and duties are provided for in Metro Code Section 7.03.030(b). These provisions are subject to annual re-adoption by the Council and therefore the provisions of this chapter do not apply to the IAB.

(Ordinance No. 00-860A, Sec. 1.)

2.19.180 Transportation Policy Alternatives Committee (TPAC)

(a) Purpose. The purpose of the Transportation Policy Alternatives Committee (TPAC) is to provide technical and policy input to JPACT and the Metro Council with the following responsibilities:

(1) Review the Unified Work Program (UWP) and prospectus for transportation planning.

(2) Monitor and provide advice concerning the transportation planning process to ensure adequate consideration of regional values such as land use, economic development, and other social, economic and environmental factors in plan development.

(3) Advise on the development of the Regional Transportation Plan in accordance with the Intermodal Surface Transportation Efficiency Act (ISTEA), the L.C.D.C. Transportation Planning Rule, the Metro Charter and the adopted 2040 Growth Concept.

(4) Advise on the development of the Transportation Improvement Program (TIP) in accordance with ISTEA.

(5) Review projects and plans affecting regional transportation.

(6) Advise on the compliance of the regional transportation planning process with all applicable federal requirements for maintaining certification.

(7) Develop alternative transportation policies for consideration by JPACT and the Metro Council.

(8) Review local comprehensive plans for their transportation impacts and consistency with the Regional Transportation Plan.

(9) Recommend needs and opportunities for involving citizens in transportation matters.

(10) The responsibilities of TPAC with respect to air quality planning are:

(A) Review and recommend project funding for controlling mobile sources of particulates, CO, HC and NOx.

(B) Review the analysis of travel, social, economic and environmental impacts of proposed transportation control measures.

(C) Review and provide advice (critique) on the proposed plan for meeting particulate standards as they relate to mobile sources.

(D) Review and recommend action on transportation and parking elements necessary to meet federal and state clean air requirements.

(b) Membership. Notwithstanding the provisions of Section 2.19.030, memberships and appointments to TPAC are controlled by these provisions:

(1) Representatives from local jurisdictions, implementing agencies and citizens as follows:

City of Portland	1
Clackamas County	1
Multnomah County	1

Washington County	1
Clackamas County Cities	1
Multnomah County Cities	1
Washington County Cities	1
Oregon Department of Transportation	1
Washington State Department of Transportation	1
Southwest Washington Regional Transportation Council	1
Port of Portland	1
Tri-Met	1
Oregon Department of Environmental Quality	1
Metro (Non-Voting)	2
Citizens	6
TOTAL	21

In addition, the City of Vancouver, Clark County, C-TRAN, Federal Highway Administration, Federal Aviation Administration (FAA), Federal Transit Administration (FTA), and Washington Department of Ecology may appoint an associate member without a vote. Additional associate members without vote may serve on the Committee at the pleasure of the Committee.

(2) Each member shall serve until removed by the appointing agency. Citizen members shall serve for two years and can be re-appointed.

(3) Alternates may be appointed to serve in the absence of the regular member.

(4) Representatives (and alternatives if desired) of the Counties and the City of Portland shall be appointed by the presiding executive of their jurisdiction/agency.

(5) Representatives (and alternates if desired) of Cities within a County shall be appointed by means of a consensus of the Mayors of those cities. It shall be the responsibility of the representative to coordinate with the cities within his/her county.

(6) Citizen representatives and their alternates will be nominated through a public application process, Metro representatives (non-voting) appointed by the Council President, and subject to confirmation by the Metro Council.

(7) Each member or alternate of the Committee, except associate members, shall be entitled to one vote on all issues presented at regular and special meetings at which the member or alternate is present.

(8) The Chairperson shall have no vote.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.190 Water Resources Policy Advisory Committee (WRPAC)

(a) Purpose. The purpose of the Water Resources Policy Advisory Committee (WRPAC) shall be to advise the Metro Council and the Chief Operating Officer on policy and technical matters related to multi-objective watershed management. These policies will strive to manage watersheds to protect, restore and ensure, to the maximum extent practicable, the integrity of streams, wetlands and floodplains and their multiple biological physical and social values. Specific responsibilities include:

(1) Assist Metro Council in the development of water resource policies and plans and their periodic review.

(2) Provide guidance to the Chief Operating Officer on the conduct of Metro's water resources planning program.

(3) Coordinating, facilitating and supporting water resource planning and management activities of local, regional, state and federal agencies.

(4) Periodic review of the "208" Plans.

(5) Ensuring adequate citizen participation in the water resources planning and management process.

(6) Provide guidance to the Metro Council and Chief Operating Officer in the development of water

resources policies, plans and technical documents related to growth management planning, including the Regional 2040 program and the Regional Framework Plan.

(b) Membership. The Committee shall consist of representatives of the following jurisdictions and agencies:

(1) Voting Members.

(A) Metro Councilor Chair

(B) Management Agencies (One vote each):

	Tualatin Watershed	**Clackamas Watershed**	**Lower Willamette Watershed**
Water Supply	TVWD	Clackamas River Water District	Portland Water Bureau
Wastewater	Clean Water Services*	Oak Lodge	Gresham
Surface Water			
• **Urban**	Clean Water Services*	Clackamas County	Portland BES
• **Agriculture**	Washington SWCD	Clackamas County SWCD	East Multnomah SWCD
			West Multnomah SWCD

*Clean Water Services has only one vote

(C) Special Interests(One Vote Each):

Environmental:
Oregon Environmental Council
Portland Audubon Society
Environmental Member-At-Large
Fishery Interest

Additional Cities:
One city for Clackamas County
One city for Washington County

Metro Greenspaces Advisory Committee:
Chair

Industrial Organization:
Homebuilders Association
High Tech Business

Nursery Operator Business

Citizens:
Tualatin Watershed
Clackamas Watershed
Lower Willamette Watershed
Developer

Total Voting Members: 27

(2) Non-Voting Members:

Dept. of Land Conservation and Development
US Army Corp of Engineers
Port of Portland
Environmental Protection Agency
Portland General Electric
National Estuary Program
Oregon Dept. of Environmental Quality
Oregon Water Resources Dept.
Oregon Dept. of Agriculture
Oregon Dept. of Forestry
Oregon Dept. of Fish and Wildlife
US Fish & Wildlife Service
Natural Resources Conservation Seat

Total Non-Voting Members: 13

(c) Appointment and Tenure.

(1) Each jurisdiction or agency shall nominate a representative and an alternate who will serve in the absence of the representative. In the case of representatives of multiple jurisdictions or agencies the nominations will be made by a poll of those represented.

(A) When action is about to take place to fill a pending vacancy, the vacancy will be listed as WRPAC agenda item, prior to solicitation of nominees.

(B) All representatives and their alternatives must be appointed by the Council President and are subject to confirmation by Metro Council.

(C) Upon absence from three (3) consecutive, regularly scheduled meetings, the nominating jurisdiction or agency shall be requested to nominate a new representative. Attendance by an alternate shall not be grounds for waiver of this requirement.

(D) Each representative and alternate is responsible for informing and networking with the entities they represent in order to fully inform all parties and solicit their input on matters pertaining to committee work and decisions.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.200 Tax Study Committee

(a) Creation and Purpose. Before considering the imposition of any new tax or taxes, which do not require prior voter approval under the Charter, the Council shall create a tax study committee by adoption of a resolution. The purpose of a tax study committee shall be to consult with and advise the Council regarding adoption of these taxes. The resolution shall state the purpose for the creation of the committee, shall include a scope of work, the members of the committee, the staffing arrangement for the committee, and the length of time for the committee to complete its work.

(b) Committee Composition and Size. A committee shall consist of no more than 11 appointed members, plus the Council President and Chief Operating Officer as ex-officio non-voting members. The membership of the committee shall be representatives of the general population, and from any businesses and the governments of cities and counties, special districts and school districts within the Metro Area.

(c) Appointments. The Council President shall appoint members of the committee subject to confirmation by the Council in the creating resolution. The Council President shall designate the chair and vice-chair of the committee at the time

of appointment. If a vacancy occurs during the time a study committee is functioning, the position shall be filled in the same manner as the original appointment and confirmation.

(d) Final Report. Upon completion of the scope of work, a committee shall submit a final report to the Council on the activities and recommendations of the committee. The Council may, upon request of the committee, extend the time of that committee to submit its final report. In no event shall the time be extended longer than six months from the original termination date of the committee. If a committee is unable to agree on a final report, then the chair of the committee shall inform the Council in writing of that conclusion.

(Ordinance No. 00-860A, Sec. 1. Amended by Ordinance No. 02-955A, Sec. l.)

2.19.210 Recycling Business Assistance Advisory Committee (RBAAC)

(a) Purpose. The purpose of the Recycling Business Assistance Advisory Committee is to advise the Chief Operating Officer regarding administration of the Recycling Business Assistance Program pursuant to Metro Code Chapter 5.04.

(b) Membership. The committee shall be composed of seven members as follows:

(1) An employee of Regional Environmental Management Department, who shall serve as committee chair;

(2) A member of the Metro Council, who shall serve as vice-chair;

(3) Two persons who have knowledge and experience in recycling principles, practices, and markets or end-uses for recyclable materials;

(4) One person who has knowledge and experience managing a business;

(5) One person who has knowledge of lending principles and practices and who is currently active in the private lending industry; and

(6) One person who has knowledge of lending or grant-making principles and practices.

(c) Appointments. The Metro councilor serving on the committee shall be appointed by the Council President.

(Ordinance No. 02-937A, Secs. 9-10.)

2.19.220 Natural Areas Program Performance Oversight Committee

(a) Purpose and Authority. The purpose and authority of the Natural Areas Program Performance Oversight Committee is to annually review whether the program is meeting the goals and objectives established for the program by the Metro Council ("program performance"). The Committee shall annually report to the Metro Council regarding such program performance, which report shall provide the Committee's recommendations to improve such performance, if any. The Committee's program performance review and report to Council:

(1) Shall assess the program's progress in implementing the strategies, goals and objectives approved by the Metro Council for:

(A) Property acquisition and protection in each of the 27 target areas, as described in Council-approved refinement plans;

(B) Local share projects; and

(C) Awards of Nature in Neighborhoods Capital Grants; and

(2) May include recommendations regarding the Natural Areas Program Work Plan to improve program efficiency, administration, and performance.

(b) Membership. The Committee shall be composed of no fewer than 13 and no more than 17 members, all appointed by the Metro Council President subject to Council confirmation. The Council President shall designate one (1) member to serve as Chair. Committee members shall primarily be professionals with experience in real estate, finance, auditing, public budgeting, banking, general business, and realty law. Eight (8) of the initial Committee members shall be appointed to serve a one (1) year term and may be reappointed for up to two (2) additional terms as provided in Metro Code Section 2.19.020.

(c) Meetings. The Committee shall meet no fewer than two times per year.

(d) The committee shall be dissolved on July 1, 2017, or upon the issuance of a final report by the committee after all funds authorized by the 2006 bond measure have been spent, whichever is earlier.

(Ordinance No. 07-1155A, Sec. 1.)

2.19.230 Nature in Neighborhoods Capital Grants Review Committee

(a) Purpose and Authority. The purpose and authority of the Nature in Neighborhoods Capital Grants Review Committee (the "Grants Review Committee" or "Committee") is to review all grant applications provided to the Committee by Metro staff, to make site visits, when appropriate, to the locations where prospective projects will occur, to score applications according to specific criteria, and to make grant award recommendations to the Metro Council. The Committee may also make recommendations to the Metro Council and Metro staff regarding the grant application, review, and award process in order to achieve the grant program’s goals in the most effective and efficient manner reasonably possible.

(b) Membership. The Grants Review Committee shall be composed of no fewer than seven and no more than 11 members, all appointed by the Metro Council President subject to Council confirmation. The Council President shall designate one (1) member of the Committee to serve as Chair. Except for Committee members whose positions are not term-limited, as indicated below, Committee members initially appointed to serve one (1) year terms may each be reappointed for up to two (2) additional terms as provided in Metro Code Section 2.19.020. The Committee shall be comprised as follows, with initial terms as indicated:

Background	**Number of Members**	**Initial Terms**
Metro Councilor(s)	1 to 3	Two years, not subject to term limits
Metro Natural Resource Staff	1	Two years, not subject to term limits
Water Quality Specialists	2	One for one year term; one for two year term
Fish and Wildlife Specialist	1	One year term

Community Representatives	2 to 4	Half or 2/3 for two year terms; others for one year terms.

(c) Meetings. The Grants Review Committee shall meet no fewer than two times per year.

(Ordinance No. 07-1163, Sec. 1)

2.19.240 Oregon Zoo Bond Citizens' Oversight Committee

(a) Purpose and Authority. The purpose and authority of the Oregon Zoo Bond Citizens' Oversight Committee is to convene periodically to review progress on the project improvements, monitor spending ("Program Progress"), and consider and recommend project modifications if inflationary increases in construction costs exceed current budget estimates. The Committee shall report annually to the Metro Council regarding such Program Progress, which report shall set forth the Committee's recommendations for project modifications, if any. The Committee's Program Progress review and report to the Metro Council:

(1) Shall assess Oregon Zoo's Program Progress in implementing the Oregon Zoo Bond Measure 26-96 project improvements.

(2) Shall report on project spending trends and current cost projections, and review and report upon the annual independent financial audit of spending.

(3) May recommend project modifications intended to account for increases in construction costs in excess of budget estimates, to ensure that the purpose and promise of the Oregon Zoo Bond Measure 26-96 is fully realized.

(b) Membership. The Committee shall be composed of no fewer than 13 and no more than 19 members, to be appointed by the Metro Council President subject to Metro Council confirmation. The Committee's members shall primarily be professionals with experience in construction, sustainability, finance, auditing, public budgeting, banking and general business. The Metro Council President shall designate one (1) member to serve as Chairperson of the Committee. Nine (9) of the initial Committee members shall be appointed to serve a one

(1) year term, and may be reappointed for up to serve two (2) additional 2-year terms as provided in Metro Code Section 2.19.030.

(c) Meetings. The Committee shall meet no fewer than two times per year.

(d) The Committee shall be dissolved on July 1, 2025 or upon the issuance of a final report by the Committee after all funds authorized by the Oregon Zoo Bond Measure 26-96 have been spent, whichever is earlier.

(Ordinance No. 10-1232,Sec. 1)

2.19.250 Audit Committee

(a) Committee Established. There is established an Audit Committee to serve as a liaison between the Metro Council, the independent external auditor, the Metro Auditor and management, as their duties relate to financial accounting, reporting, and internal controls and compliance.

(b) Duties. The Committee assists the Metro Council in reviewing Metro Council accounting policies and reporting practices as they relate to the Metro Council's Comprehensive Annual Financial Report. The Committee is the Metro Council's agent in assuring the independence of the Council's external auditors, the integrity of management, and the adequacy of disclosures to the public.

(c) Meetings. The Committee meets at least twice annually and as many times as it deems necessary to:

(1) Review, prior to the annual audit, the scope and general extent of the external auditor's planned examination, including their engagement letter.

(2) Review with management, the Metro Auditor and the external auditor, upon completion of their audit, financial results for the year prior to the presentation to the Metro Council. This review should encompass:

(A) The Metro Council's Comprehensive Annual Financial Report and Supplemental Disclosures required by General Accepted Accounting Principles (GAAP).

(B) Significant transactions not a normal part of the Metro Council's operations.

(C) Selection of and changes, if any during the year, in the Metro Council's accounting principles or their application.

(D) Significant adjustment proposed by the external auditor.

(E) Any disagreements between the external auditor and management about matters that could be significant to the Metro Council's financial statement or the Metro Auditor's report.

(F) Difficulties encountered in performance of the audit.

(G) Violation of federal and state law, Metro Council ordinance, and contractual agreements reported by the external auditor.

(3) Request comments from management regarding the responsiveness of the external auditor to the Metro Council's needs. Inquire of the Metro Auditor whether there have been any disagreements with management that, if not satisfactorily resolved, would have caused them to issue a nonstandard report on the Metro Council's financial statements.

(4) Review with the external auditor the performance of the Metro Council's financial and accounting personnel and any recommendations that the external auditor may have. Topics to be considered during this discussion include improving internal financial controls, controls over compliance, the selection of accounting principles, and financial reporting systems.

(5) Review written responses of management to "letter of comments and commendations" from the external auditor and discuss with management the status of implementation of prior period recommendations and corrective action plans.

(6) Ensure the final report is presented to the Metro Council within 90 days of completion of the audit. Upon presentation to the Metro Council, the audit will be considered complete.

(7) Recommend to the Metro Council revisions that should be made to the Metro Council's financial policies or internal controls.

(8) Recommend to the Metro Council appropriate extensions or changes in the duties of the Committee.

(9) Assist with external auditor selection:

(A) The selection of the external auditor by the Metro Auditor shall be made according to Oregon Revised Statutes (ORS) and Metro procurement procedures, rules and regulations concerning proper selection procedures.

(B) The Metro Auditor shall, after consultation with the Committee, procure a request for proposals for the external auditor at least every five (5) years for the Metro Council's Comprehensive Annual Financial Report.

(C) The Committee will review the responses to the requests for proposals and make a recommendation to the Metro Auditor on the selection of the external auditor.

(10) Adopt rules or bylaws consistent with this section and all state and federal laws for its operation.

(d) Membership. The Committee is composed of:

(A) A Metro Councilor.

(B) A MERC Commissioner.

(C) The Metro Auditor (Non-Voting Capacity).

(D) Four (4) citizens recommended by the Metro

Auditor.

(E) Metro’s head finance staff person as designated by the Metro Chief Operating Officer (Non-Voting Capacity).

(e) Appointments. Appointments of voting members shall be made by the Metro Council President subject to confirmation by the Metro Council.

(f) Selection. Selection of the Audit Committee will be designed to ensure the maximum degree of independence for the audit management process. At least two (2) of the four (4) independent citizen members should have financial expertise. Voting members must reside in the jurisdictional Metro Area in the counties of Multnomah, Clackamas and Washington. The citizen members shall serve four (4) year terms, with the terms of the initial members being staggered so that in any one year only one term expires. In the event of a vacancy, the appointment shall be only for the remainder of the term.

(g) Members of the Committee must have no monetary or investment interest in any matters concerning the selection of the external auditor.

(h) Metro employees and employees of any organization providing or competing for audit contract services to Metro are not eligible for membership on the Committee.

(i) The Committee elects or appoints a chairperson to preside at all meetings. The chairperson’s duties rotate annually, with no chairperson presiding for more than one year in any term. The Committee designates a person as chair-elect to preside as vice-chair.

(j) The Office of Metro Auditor provides technical and clerical support to the Committee and arranges meetings for the Committee.

(Ordinance No. 10-1233, Sec. 2)

CHAPTER 2.20

CHIEF OPERATING OFFICER

SECTIONS	TITLE
2.20.010	Creation of Office
2.20.020	Appointment and Removal
2.20.030	Power and Duties of the Chief Operating Officer
2.20.040	Council Not to Interfere with Appointments or Removals
2.20.050	Emergencies
2.20.060	Compensation
2.20.070	Vacancy

2.20.010 Creation of Office

The office of Chief Operating Officer is hereby created pursuant to Metro Charter, Section 26.

(Ordinance No. 02-942A.)

2.20.020 Appointment and Removal

(a) The Chief Operating Officer shall be appointed by the Council President subject to confirmation by the Council by resolution. The Council President shall involve the Council in the hiring process. The Chief Operating Officer shall be chosen solely on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office set forth in this Chapter. At the time of appointment, the appointee need not be a resident of Clackamas, Multnomah, or Washington County or the state, but during the Chief Operating Officer's tenure of office shall reside within the boundaries of Clackamas, Multnomah, or Washington County. No Council member shall receive such appointment during the term for which the Council member shall have been elected nor within one year after the expiration of the Council member's term.

(b) The Chief Operating Officer serves at the pleasure of the Council and is subject to removal by the Council President with the concurrence of the Council by resolution.

(Ordinance No. 02-942A. Amended by Ordinance No. 03-1002, Sec. 1.)

2.20.030 Power and Duties of the Chief Operating Officer

The Chief Operating Officer shall be the chief administrative officer of Metro, may head one or more departments, and shall be responsible to the Metro Council for the proper administration of all affairs of Metro. To that end, except as otherwise provided by Charter or ordinance, the Chief Operating Officer shall have the power and shall be required to:

(a) Appoint, supervise, discipline, or remove all officers and employees of Metro. The Chief Operating Officer may authorize the head of a department or office to appoint, supervise, discipline, or remove subordinates in such department or office.

(b) Serve as the district budget officer and accordingly prepare and submit to the Council a proposed annual budget, together with a message describing the important features of the proposed budget, and be responsible for the administration of the budget after its adoption by the Council.

(c) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of Metro for the preceding year.

(d) Keep the Metro Council advised of the financial condition and future needs of Metro, and make such recommendations as may be deemed desirable.

(e) Consolidate or combine offices, positions, departments, or units under the Chief Operating Officer's jurisdiction, with the approval of the Metro Council. The Chief Operating Officer may be the head of one or more departments.

(f) Devote full time to the discharge of all official duties.

(g) Perform such other duties as may be required by the Council, not inconsistent with Metro Charter, law, or Ordinances.

(Ordinance No. 02-942A. Amended by Ordinance No. 07-1164A, Sec. 4.)

2.20.040 Council Not to Interfere with Appointments or Removals

(a) Neither the Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the Chief Operating Officer or any of the Chief Operating Officer's subordinates.

(b) Nothing in this section shall prevent the Council President or individual councilors from participating with the Chief Operating Officer in the assignment and performance review of Council staff.

(c) The Metro Council shall direct staff resources through the Chief Operating Officer.

(Ordinance No. 02-942A.)

2.20.050 Emergencies

In case of accident, disaster, or other circumstance creating a public emergency, the Chief Operating Officer may award contracts and make purchases for the purpose of meeting the emergency; but the Chief Operating Officer shall file promptly with the Council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

(Ordinance No. 02-942A.)

2.20.060 Compensation

The Chief Operating Officer shall receive such compensation as the Council shall fix from time to time by contract.

(Ordinance No. 02-942A.)

2.20.070 Vacancy

Any vacancy in the office of the Chief Operating Officer shall be filled with all due speed. During any vacancy or incapacity, the Council President may appoint an acting Chief Operating Officer subject to confirmation by the Council by resolution.

(Ordinance No. 02-942A.)

CHAPTER 2.21

CLAIMS UNDER ORS 197.352 (BALLOT MEASURE 49)

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing an Amended Claim
2.21.040	Review of Amended Claim by Chief Operating Officer
2.21.050	Filing a New Claim
2.21.060	Review of New Claim by Chief Operating Officer
2.21.070	Hearing before Metro Council
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 49. Metro adopts this chapter in order to afford property owners the relief guaranteed them by ORS 197.352 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement the statute faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

(Ordinance No. 07-1168, Sec. 1.)

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989.

(b) "Department" means the Oregon Department of Land Conservation and Development.

(c) "Land use regulation" means a provision of a Metro functional plan that restricts the residential use of private real property.

(d) "Owner" means:

(1) The owner of fee title to the property as shown in the deed records of the county where the property is located;

(2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

(e) "Reduction in value" means a decrease in fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after enactment, plus interest, adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703.

(f) "Waiver" means action by the Metro Council to modify, remove or not apply one or more land use regulations found to have caused a reduction in value.

(Ordinance No. 07-1168, Sec. 1.)

2.21.030 Filing an Amended Claim

(a) A person may amend a claim that was filed with Metro on or before June 28, 2007.

(b) To qualify for compensation or waiver, a person filing an amended claim under this section must establish that:

(1) The claimant is an owner of the property;

(2) All owners of the property have consented in writing to the filing of the claim;

(3) The property is located, in whole or in part, within the regional UGB;

(4) On the claimant’s acquisition date, the claimant lawfully was permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49;

(5) The property is zoned for residential use;

(6) A land use regulation prohibits the establishment of a single-family dwelling;

(7) The establishment of a single-family dwelling is not prohibited by a land use regulation described in ORS 197.352(3);

(8) The land use regulation described in paragraph (6) of this section was enacted after the date the property, or any portion of it, was brought into the UGB;

(9) The land use regulation described in paragraph (6) of this section was enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro;

(10) The enactment of the land use regulation caused a reduction in the fair market value of the property; and

(11) The highest and best use of the property was residential use at the time the land use regulation was enacted.

(c) A person filing an amended claim under this section must submit the following information:

(1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;

(2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest;

(3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;

(4) A reference to any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;

(5) A copy of the city or county land use regulations that applied to the property at the time the challenged land use regulations became applicable to, or were enforced against, the property;

(6) An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;

(7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation;

(8) If the property is or has been enrolled in one or more of the special assessment programs listed in Section 2.21.020(e), information regarding taxes not paid as a result of the program or programs; and

(9) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.

(d) The Chief Operating Officer shall notify all claimants who filed claims on or before June 28, 2007, and whose claims were not decided by the Metro Council prior to January 1, 2008, that they may amend their claims under this section and shall provide a form for amended claims. A claimant must submit an amended claim under this section to the Chief Operating Officer within 120 days after the date of notice under this paragraph or the claimant is not entitled to compensation or waiver.

(Ordinance No. 07-1168, Sec. 1.)

2.21.040 Review of Amended Claim by Chief Operating Officer

(a) The Chief Operating Officer (COO) shall review a claim filed under Section 2.21.030 to ensure that it provides the information required by Section 2.21.030(c). If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) The COO shall review the claim for compliance with the requirements of Section 2.21.030(b)and prepare a tentative determination of compliance not later than 120 days after the filing of a complete claim. The COO shall provide written notice to the claimant, the department, the city or county with land use authority over the claim property and owners of property within 100 feet of the claim property of the tentative determination as to whether the claimant qualifies for

compensation or waiver and, if qualified for waiver, the specific number of single-family dwellings Metro proposes to authorize. The written notice shall inform recipients they have 15 days to submit evidence or argument to the COO in response to the tentative determination.

(Ordinance No. 07-1168, Sec. 1.)

2.21.050 Filing a New Claim

(a) A person may file a claim after June 28, 2007, and will qualify for compensation or waiver, if:

(1) The claimant is an owner of the property and all owners of the property have consented in writing to filing of the claim;

(2) The claimant's desired use of the property is a residential use;

(3) The claimant's desired use of the property is restricted by a land use regulation enacted after January 1, 2007;

(4) The enactment of the land use regulation has reduced the fair market value of the property; and

(5) The highest and best use of the property was residential use at the time the land use regulation was enacted.

(b) A person filing a claim under this section must submit the fee for processing the claim prescribed by the Chief Operating Officer and the following information:

(1) The name, street address and telephone number of the claimant and all other owners of the property;

(2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property; the deed registry of the instrument by which the claimant acquired the property; the location and street address and township, range, section and tax lot number(s) of the property; the date on which the owner acquired the property interest; and any exceptions and encumbrances to title;

(3) A written statement signed by all owners of the property consenting to the filing of the claim;

(4) A citation to the land use regulation the claimant believes is restricting the claimant's desired use that is adequate to allow Metro to identify the specific land use regulation that is the basis for the claim;

(5) A description of the specific use of the property that the claimant desires to carry out, but cannot because of the land use regulations;

(6) An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;

(7) If the property is or has been enrolled in one or more of the special assessment programs listed in Section 2.21.020(e), information regarding taxes not paid as a result of the program or programs; and

(8) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.

(c) A person filing a claim under this section must file the claim within five years after the land use regulation was enacted.

(Ordinance No. 07-1168, Sec. 1.)

2.21.060 Review of New Claim by Chief Operating Officer

(a) The Chief Operating Officer (COO) shall review the claim to ensure that it provides the information required by Section 2.21.050(b). If the COO determines that the claim is incomplete, the COO shall, within 60 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner that the claim is incomplete within the prescribed 60 days, the claim shall be considered complete on the date it was filed with the COO.

(b) A claim filed under this section shall not be considered complete until the claimant has submitted the information required by this section. If the claimant fails to submit a complete claim within 60 days after the notice prescribed in subsection (a), the claim shall be deemed withdrawn.

(c) The COO shall conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:

(1) The property lies within Metro's jurisdictional boundary;

(2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and

(3) The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.

(d) If the claim fails to satisfy one or more of the prerequisites in subsection (c) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim following a public hearing under Section 2.21.070.

(e) If the claim satisfies each of the prerequisites in subsection (c) of this section, the COO shall complete the review of the claim to determine whether it satisfied the criteria in Section 2.21.050(a).

(f) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.352 and to assist in the development of a recommendation regarding appropriate relief for a valid claim.

(g) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (e) of this section and the reasoning to support the determination. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan. If the COO recommends waiver, the report shall recommend the specific number of single-family dwellings Metro should authorize to offset the reduction in fair market value of the property.

(h) The COO shall provide the report to the Council, the claimant, the city or county with land use responsibility for the property, and other persons who request a copy. If the Council adopted the regulation in order to comply with state

law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

(Ordinance No. 07-1168, Sec. 1.)

2.21.070 Hearing before Metro Council

(a) The Metro Council shall hold a public hearing on a claim prior to its final determination. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim.

(b) The COO shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, the local government with land use planning responsibility for the property and the department. The notice shall indicate that:

(1) A copy of the COO's recommendation is available upon request;

(2) Judicial review of Metro's final determination is limited to the written evidence and arguments submitted to Metro prior to or at the public hearing; and

(3) Judicial review is available only for issues that are raised with sufficient specificity to afford Metro an opportunity to respond in its final determination.

(c) After the close of the public hearing the Metro Council shall makes its final determination on the claim and enter an order with findings of fact and conclusions of law, based upon the record made before Metro, that explain the determination. The COO shall mail a copy of the final determination to the claimant, the county in which the subject property lies and any person who submitted written or oral testimony prior to the close of the public hearing.

(Ordinance No. 07-1168, Sec. 1.)

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a new claim under Section 2.21.050 at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing the claim. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro’s costs in reviewing and processing the claim. After the final determination by the Council under Section 2.21.060, the COO shall determine Metro’s total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

(Ordinance No. 07-1168, Sec. 1.)

TITLE III

PLANNING

CHAPTERS	TITLE
3.01	Urban Growth Boundary and Urban Reserve Procedures* **(Repealed by Ordinance 10-1244B, Section 11.)**
3.02	Waste Water Management Plan**
3.03	Housing Goals and Objectives (repealed Ord. 02-972A §1)
3.04	Regional Stormwater Management Plan (repealed Ord. 02-972A §1)
3.05	Phosphorous Ban (expired 12/31/94)
3.06	Planning Procedure for Designating Functional Planning Areas and Activities
3.07	Urban Growth Management Functional Plan
3.08	Regional Transportation Functional Plan***
3.09	Local Government Boundary Changes

(Metro Code Chapter 3.01 Repealed by Ordinance 10-1244B, Section 11.)

(See Metro Code Chapter 3.07 - Title 14, beginning on page 111.)

CHAPTER 3.02

WASTE WATER MANAGEMENT PLAN

SECTIONS	TITLE
3.02.001	Authority and Purpose
3.02.002	Adoption
3.02.003	Conformity to the Regional Plan
3.02.004	Review of Violations of the Regional Plan
3.02.005	Regional Plan Amendments
3.02.006	Study Areas
3.02.008	Project Prioritization
3.02.009	Continuing Planning Process
3.02.010	Application of Ordinance
3.02.011	Severability

3.02.001 Authority and Purpose

(a) This chapter is adopted pursuant to ORS 268.390(1)(b) and 268.390(2) for the purpose of adopting and implementing the Regional Waste Water Management Plan, hereinafter referred to as the "Regional Plan." The Regional Plan shall include the Regional Waste Water Management Plan Text, Sewerage Transmission and Treatment Service Areas Map and Collection System Service Areas Map.

(b) These rules shall become effective 45 days after the date of adoption. As a result of Metro's continuing "208" Water Quality Program, the Council hereby designates water quality and waste treatment management as an activity having significant impact upon the orderly and responsible development of the region.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 1; Ordinance No. 84-184, Sec. 1; Ordinance No. 86-206, Sec. 1; Ordinance No. 88-275, Sec. 1; Ordinance No. 02-972A, Sec. l.)

3.02.002 Adoption

The Regional Waste Water Management Plan, as amended, copies of which are on file at Metro offices, is adopted and shall be implemented as required by this chapter.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 2; Ordinance No. 84-184, Sec. 1; Ordinance No. 86-206, Sec. 1; Ordinance No. 87-229, Sec. 1; Ordinance No. 88-275, Sec. 1.)

3.02.003 Conformity to the Regional Plan

(a) Management agencies shall not take any land use related action or any action related to development or provision of public facilities or services which are not in conformance with the Regional Plan.

(b) For purposes of this chapter "management agencies" shall mean all cities, counties and special districts involved with the treatment of liquid wastes within the Metro jurisdiction.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 3; Ordinance No. 86-203, Sec. 1.)

3.02.004 Review of Violations of the Regional Plan

(a) Any member management agency, interested person or group may petition the Council for review of any action, referred to in Section 3.02.003 of this chapter, by any management agency within 30 days after the date of such action.

(b) Petitions filed pursuant to this section must allege and show that the subject action is of substantial regional significance and that the action violates the Regional Plan.

(c) Upon receipt of a petition for review, the Council shall decide, without hearing, whether the petition alleges a violation of the Regional Plan and whether such violation is of substantial regional significance and, if so, shall accept the petition for review. The Council shall reach a decision about whether to accept the petition within 30 days of the filing of such petition. If the Council decides not to accept the petition, it shall notify the petitioner in writing of the reasons for rejecting said petition. If the Council decides to accept the petition, it shall schedule a hearing to be held within 30 days of its decision. A hearing on the petition shall be conducted in accordance with applicable procedural rules.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 4; Ordinance No. 02-972A, Sec. 1.)

3.02.005 Regional Plan Amendments

(a) Revisions in the Regional Plan shall be in accordance with procedural rules adopted by the Council.

(b) Mistakes discovered in the Regional Plan may be corrected administratively without petition, notice or hearing. Such corrections may be made by order of the Council upon

determination of the existence of a mistake and of the nature of the correction to be made.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 5; Ordinance No. 86-203, Sec. 1.)

3.02.006 Study Areas

(a) Treatment System Study Areas:

(1) Certain areas may be designated on the Treatment System Service Area Map as "Treatment System Study Areas." Such designations are temporary and indicate areas requiring designation of that land to which each management agency intends to provide wastewater treatment services, as identified in an acceptable facilities plan.

(2) Wastewater treatment facilities within treatment system study areas shall be allowed only if:

(A) Required to alleviate a public health hazard or water pollution problem in an area officially designated by the appropriate state agency;

(B) Needed for parks or recreation lands which are consistent with the protection of natural resources or for housing necessary for the conduct of resource-related activities; or

(C) Facilities have received state approval of a Step 1 Facilities Plan, as defined by the U. S. Environmental Protection Agency regulations (Section 201, PL 92-500), prior to the effective date of this chapter.

(3) Facilities planning for a designated treatment system study area shall include investigation of the regional alternative recommended in the support documents accepted by the Regional Plan. Such investigations shall be conducted in accordance with Article V, Section 1, (A)(2)(a)(iv) of the Regional Plan text.

(4) No federal or state grants or loans for design or construction of any major expansion or modification of treatment facilities shall be made available to or used by agencies serving designated treatment system study areas until such

time as a state approved facilities plan has been completed.

(5) Upon completion of a facilities plan and acknowledgment by Metro of compliance with the Regional Plan, a treatment system study area shall become a designated treatment system service area and shall be eligible to apply for Step 2 and Step 3 construction grants. The treatment system service area shall be incorporated by amendment into the Regional Plan and all appropriate support documents pursuant to Section 3.02.009 of this chapter.

(b) Collection System Study Areas:

(1) Certain areas are designated on the Collection System Service Area Map as "Collection System Study Areas." Such designations are temporary and exist only until such time as each member and special district designates that land to which it intends to provide sewage collection services. At the time of designation, collection system study areas shall become designated collection system service areas. The Regional Plan and the appropriate support documents shall be amended to incorporate the collection system service area pursuant to Section 3.02.009 of this chapter.

(2) Designation as a collection system study area shall not be construed to interfere with any grants or loans for facility planning, design or construction.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 6, and Ordinance No. 86-206, Sec. 1.)

3.02.008 Project Prioritization

Metro shall review each publication of the DEQ grant priorities list and shall have the opportunity to comment thereon.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 8; Ordinance No. 86-206, Sec. 1.)

3.02.009 Continuing Planning Process

(a) For the purpose of implementing Article V, Section 1 (A)(2)(b)(i) of the Regional Plan, the continuing planning

process shall follow, but not be limited to, the procedure shown below.

(1) Evaluation of new information with respect to its impact on the Regional Plan. Regional Plan changes shall be based upon:

(A) Changes in custody, maintenance and/or distribution of any portion of the waste treatment component;

(B) Changes in population forecasts and/or wasteload projections;

(C) Changes in state goals or regional goals or objectives;

(D) Changes in existing treatment requirements;

(E) Implementation of new technology or completion of additional study efforts; development of more energy-efficient wastewater treatment facilities; or

(F) Other circumstances which because of the impact on water quality are deemed to effect the waste treatment component.

(2) Adequate public review and comment on the change.

(3) Adoption of Regional Plan change by Metro Council.

(4) Submittal of change to DEQ for approval and state certification.

(5) EPA approval of change.

(b) For the purpose of amending support documents referenced in Article I, Section 3(F) of the Regional Plan, the process shall be as shown below:

(1) Any proposed change to the support documents shall be presented to the Metro Council with the following information:

(A) Reasons for proposed action;

(B) Basis of data;

(C) Method of obtaining data;

(D) Period in which the data was obtained;

(E) Source of the data;

(F) Alternatives considered; and

(G) Advantages and disadvantages of the proposed action.

(2) Following approval by the Metro Council, amendments to the support documents shall be attached to appropriate documents with the following information:

(A) Approved change and replacement text for the document;

(B) Specific location of change within the document;

(C) Reasons for the change; and

(D) Date of Council action approving the change.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 9; Ordinance No. 86-206, Sec. 1.)

3.02.010 Application of Ordinance

This chapter shall apply to all portions of Clackamas, Washington and Multnomah counties within the jurisdiction of Metro.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 10.)

3.02.011 Severability

(a) The sections of this chapter shall be severable, and any action or judgment by any state agency or court of competent jurisdiction invalidating any section of this chapter shall not affect the validity of any other section.

(b) The sections of the Regional Plan shall also be severable and shall be subject to the provisions of subsection (a) of this section.

(c) For purposes of this section, the maps included in the Regional Plan shall be considered as severable sections, and any

section or portion of the maps which may be invalidated as in subsection (a) above shall not affect the validity of any other section or portion of the maps.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 11.)

CHAPTER 3.06

PLANNING PROCEDURE FOR DESIGNATING FUNCTIONAL PLANNING AREAS AND ACTIVITIES

SECTIONS	TITLE
3.06.010	Policy and Purpose
3.06.020	Procedures and Implementation

3.06.010 Policy and Purpose

The Council recognizes its authority and responsibility pursuant to ORS 268.390 to prepare and adopt functional plans for areas and activities which have impact on air quality, water quality, transportation and other aspects of metropolitan area development identified by the Council.

This chapter is intended to define a planning procedure for identifying and designating those activities and areas in need of functional planning.

(Ordinance No. 91-408A, Sec. 1.)

3.06.020 Procedures and Implementation

(a) The Chief Operating Officer from time to time shall report to the Council those aspects of development in addition to water quality, air quality, and transportation, which are related to the orderly and responsible development of the metropolitan area.

(b) As part of the Council standing committee recommendations from review of the Chief Operating Officer's annual proposed budget, the standing committees shall report to the Council whether there are aspects of development in addition to water quality, air quality and transportation, which are related to the orderly and responsible development of the metropolitan area.

(c) The Council may by resolution designate areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, air quality, water quality, and transportation. The resolution shall state that the area or activity designated has a significant impact on metropolitan area development.

(d) The resolution shall direct the Chief Operating Officer to present to the Council a functional plan for the area and activity designated in the resolution.

(Ordinance No. 86-207. Replaced by Ordinance No. 91-408A, Sec. 1. Amended by Ordinance No. 02-972A, Sec. l.)

CHAPTER 3.07

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Section Title

3.07.010 Purpose

3.07.020 Regional Policy Basis

3.07.030 Structure of Requirements

Regional Functional Plan Requirements

Title 1: Housing Capacity

3.07.110 Purpose and Intent

3.07.120 Housing Capacity

Title 2: Regional Parking Policy

(Repealed Ord. 10-1241B, Sec. 6)

Title 3: Water Quality and Flood Management

3.07.310 Intent

3.07.320 Applicability

3.07.330 Implementation Alternatives for Cities and Counties

3.07.340 Performance Standards

3.07.350 Fish and Wildlife Habitat Conservation Area

(Repealed Ord. 05—1077C, Sec. 6)

3.07.360 Metro Model Ordinance Required

3.07.370 Variances

(Repealed Ord. 05-1077C, Sec. 6)

Table 3.07-3 – Protected Water Features

Title 4: Industrial and Other Employment Areas

3.07.410 Purpose and Intent

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3.07.430 Protection of Industrial Areas

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(Repealed Ord. 10-1238A, Sec. 4)

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NOTE: The Urban Growth Management Functional Plan was adopted by the Metro Council by Ordinance No. 96-647C, and Ordinance No. 97-691C, prior to being codified as Metro Code Chapter 3.07 by Ordinance No. 97-715B.

3.07.010 Purpose

The regional policies which are adopted by this Urban Growth Management Functional Plan recommend and require changes to city and county comprehensive plans and implementing ordinances. The purpose of this functional plan is to implement regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO) including the Metro 2040 Growth Concept and the Regional Framework Plan. The comprehensive plan changes and related actions, including implementing regulations, required by this functional plan as a component of the Regional Framework Plan, shall be complied with by cities and counties as required by Section 5(e)(2) of the Metro Charter.

Any city or county determination not to incorporate all required functional plan policies into comprehensive plans shall be subject to the conflict resolution and mediation processes included within the RUGGO, Goal I provisions, prior to the final adoption of inconsistent policies or actions.

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

3.07.020 Regional Policy Basis

The regional policies adopted in this Urban Growth Management Functional Plan are formulated from, and are consistent with, the RUGGOs, including the Metro 2040 Growth Concept. The overall principles of the Greenspaces Master Plan are also incorporated within this functional plan. In addition, the Regional Transportation Functional Plan (RTFP), adopted on June 10, 2010, as Metro Code 3.08, serves as the primary transportation policy implementation of the 2040 Growth Concept.

(Ordinance 97-715B, Sec. 1. Ordinance 02-972A, Sec. 1.)

3.07.030 Structure of Requirements

The Urban Growth Management Functional Plan is a regional functional plan which contains "requirements" that are binding on cities and counties of the region as well as recommendations that are not binding. “Shall” or other directive words are used with requirements. The words "should" or "may" are used with recommendations. In general, the plan is structured so that local jurisdictions may choose either performance standard requirements or prescriptive requirements. The intent of the requirements is to assure that cities and counties have a significant amount of flexibility as to how they meet requirements. Performance

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

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

REGIONAL FUNCTIONAL PLAN REQUIREMENTS

Title 1: Housing Capacity

3.07.110 Purpose and Intent

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

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

3.07.120 Housing Capacity

(a) A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection (d) or (e). A city or county may reduce its minimum zoned capacity in other locations under subsections (c), (d) or (e).

(b) Each city and county shall adopt a minimum dwelling unit density for each zone in which dwelling units are authorized except for zones that authorize mixed-use as defined in section 3.07.1010(gg). If a city or county has not adopted a minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density.

(c) A city or county may reduce its minimum zoned capacity by one of the following actions if it increases minimum 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:

(1) Reduce the minimum dwelling unit density, described in subsection (b), 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 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.

(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 197.299.

(g) A city or county shall 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.

(Ordinance 97-715B, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 02-969B, Sec. 1. Ordinance 07-1137A, Sec. 1. Ordinance 10-1244B, Sec. 2. Ordinance 15-1357.)

Title 2 Regional Parking Policy

Title 2 is repealed.

(Ordinance 97-715B, Sec. 1. Ordinance 10-1241B, Sec. 6.)

Title 3: Water Quality And Flood Management

3.07.310 Intent

To protect the beneficial water uses and functions and values of 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.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 05-1077C, Sec. 6.)

3.07.320 Applicability

(a) Title 3 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.

(b) Title 3 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 3.07.340.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 05-1077C, Sec. 6.)

3.07.330 Implementation Alternatives for Cities and Counties

(a) Cities and counties shall comply with this title in one of the following ways:

(1) Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 3.07.340 and the intent of this title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:

(A) Adopt code language implementing this title which prevails over the map and uses the map as reference; or

(B) Adopt a city or county field verified map of Water Quality and Flood Management Areas based on the Metro Water Quality and Flood Management map implementing this title which prevails over adopted code language.

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

(i) Applies the Title 10 definitions of Protected Water Feature, Water Quality Resource Areas and Flood Management Areas to all those protected areas on the Metro Water Quality and Flood Management Areas map to show the specific boundaries of those protected areas on the locally adopted Water Quality and Flood Management Areas map; and

(ii) Is subject to amendment by applying adopted code language to add Protected Water Features, Water Quality Resource Areas and Flood Management Areas and to correct errors in the local Water Quality and Flood Management Areas map consistent with Section 3.07.330(d).

(2) Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 3.07.340 and the intent of this title.

(3) Any combination of (1) and (2) above that substantially complies with all performance standards in Section 3.07.340.

(b) Cities and counties shall hold at least one public hearing prior to adopting comprehensive plan amendments, ordinances and maps implementing the performance standards in Section 3.07.340 of this title or demonstrating that existing city or county comprehensive plans and implementing ordinances substantially comply with Section 3.07.340, to add Protected Water Features, and wetlands which meet the criteria in Section 3.07.340(e)(3), to their Water Quality and Flood Management Area map. The proposed comprehensive plan amendments, implementing ordinances and maps shall be available for public review at least 45 days prior to the public hearing.

(c) Cities and counties shall conduct a review of their Water Quality and Flood Management Areas map concurrent with local periodic review required by ORS 197.629.

(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 Water Quality and Flood Management Areas map adopted by the Metro Council.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 15-1357.)

3.07.340 Performance Standards

(a) Flood Management Performance Standards.

(1) The purpose of these standards 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 conform to the following performance standards:

(A) Development, excavation and fill shall 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 be balanced with at least an equal amount of soil material removal.

(C) Excavation shall 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 be at least one foot above the design flood elevation.

(E) Temporary fills permitted during construction shall be removed.

(F) Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.

(3) The following uses and activities are not subject to the requirements of subsection(2):

(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 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 be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossing shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

(b) Water Quality Performance Standards.

(1) The purpose of these standards is to: 1) protect and improve water quality to support the designated beneficial water uses as defined in Title 10, and 2) protect the functions and values of the Water Quality Resource Area 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 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 Water Feature. The width of the vegetated corridor is specified in Table 3.07-3. At least three slope measurements along the water feature, at no more than 100-foot increments, shall 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 be protected, maintained, enhanced or restored as specified in Section 3.07.340(b)(2).

(C) Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area, which cannot be mitigated in accordance with subsection (2)(F).

(D) Native vegetation shall 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 be encouraged to enhance or restore the Water Quality Resource Area. This shall 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 Water Quality Resource Area shall be prohibited.

(F) Cities and counties may allow development in Water Quality Resource Areas provided that the governing body, or its designate, implement 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 3.07.340(b)(2)(D).

(H) The performance standards of Section 3.07.340(b)(2) 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 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 encourage landowners to voluntarily protect these areas through various means, such as conservation easements and incentive programs.

(c) Erosion and Sediment Control.

(1) The purpose of this section 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 be designed to prevent visible and measurable erosion as defined in Title 10.

(3) To the extent erosion cannot be completely prevented, sediment control measures shall 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 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 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 3.07.340(c) of this title.

(D) In determining appropriate conditions of approval, the affected city or county shall require the applicant to:

(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 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 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 Quality and Flood Management Areas maps. Cities and counties may also apply the performance standards of this title to other wetlands.

(e) Map Administration.

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

(1) Amendments to city and county adopted Water Quality and Flood Management Area maps to correct the location of Protected Water Features, Water Quality Resource Areas and Flood Management Areas. Amendments shall 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 Quality and Flood Management Area and Protected Water Feature.

(3) Amendments to city and county adopted Water Quality and Flood Management Area maps to add Title 3 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 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 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 3.07.340(e)(3) to water quality or stormwater detention facilities.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 05-1077C, Sec. 6. Ordinance 15-1357.)

3.07.350 Fish and Wildlife Habitat Conservation Area

(Repealed Ordinance 05-1077C, Sec. 6.)

3.07.360 Metro Model Ordinance Required

Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map. The Model Ordinance shall represent one method of complying with this title. The Model Ordinance shall 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 Water Quality and Flood Management Areas Map shall be deemed to have substantially complied with the requirements of this title.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 2. Ordinance 00-839, Sec. 1. Ordinance 05-1077C, Sec. 6.)

3.07.370 Variances

(Repealed, Ordinance 05-1077C, Sec. 6.)

Table 3.07-3 - Protected Water Features

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

Protected Water Feature Type (see definitions)	**Slope Adjacent to Protected Water Feature**	**Starting Point for Measurements from Water Feature**	**Width of Vegetated Corridor**
Primary Protected Water Features[1]	< 25%	• Edge of bankfull flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet
Primary Protected Water Features[1]	≥ 25% for 150 feet or more[5]	• Edge of bankfull flow or 2-year storm level; • Delineated edge of Title 3 wetland	200 feet
Primary Protected Water Features[1]	≥ 25% for less than 150 feet[5]	• Edge of bankfull flow or 2-year storm level; • Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in ≥25% slope)[3], plus 50 feet.[4]
Secondary Protected Water Features[2]	< 25%	• Edge of bankfull flow or 2-year storm level; • Delineated edge of Title 3 wetland	15 feet
Secondary Protected Water Features[2]	≥ 25%[5]	• Edge of bankfull flow or 2-year storm level; • Delineated edge of Title 3 wetland	50 feet

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

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

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

Appendix).

[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% (top of ravine).

[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.

(Ordinance 98-730C, Sec. 1.)

Title 4: Industrial and Other Employment Areas

3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 5. Ordinance 04-1040B, Sec. 2. Ordinance 10-1244B, Sec. 3.)

3.07.420 Protection of Regionally Significant Industrial Areas

(a) Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.

(b) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers – such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings

for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

(1) Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and

(2) Training facilities whose primary purpose is to provide training to meet industrial needs.

(c) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection (b) and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP or require added road capacity to prevent falling below the standards.

(d) Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA. Nothing in this subsection is intended to prohibit trails and facilities accessory to and in support of trails from being located within an area designated RSIA on Metro's Title 4 Map, including but not limited to trailhead amenities, parking areas, benches, information kiosks, restrooms, shelters, bicycle racks, picnic areas and educational facilities. Where possible, trails and accessory facilities should be planned and located in a manner that limits impacts on industrial uses while still fulfilling the purpose of the trail and providing a positive experience for trail users.

(e) No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and

Industrial Areas Map to authorize uses described in subsection (b) that were not authorized prior to July 1, 2004.

(f) Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

(1) Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

(2) Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

(3) Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection (b) of this section.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

(A) To provide public facilities and services;

(B) To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

(C) To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

(D) To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

(g) Notwithstanding subsection (b) of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection (e) of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 5. Ordinance 04-1040B, Sec. 2. Ordinance 10-1244B, Sec. 3. Ordinance 14-1329B.)

3.07.430 Protection of Industrial Areas

(a) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

(1) Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and

(2) Training facilities whose primary purpose is to provide training to meet industrial needs.

(b) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection (a) to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the

Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

(c) No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection (a) of this section that were not authorized prior to July 1, 2004.

(d) Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

(1) Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

(2) Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

(3) Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection (a) of this section.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

(A) To provide public facilities and services;

(B) To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

(C) To separate a portion of a lot or parcel containing a nonconforming use from the

remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

(D) To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

(e) Notwithstanding subsection (b) of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor space and 10 percent more land area.

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 5. Ordinance 04-1040B, Sec. 2. Ordinance 10-1244B, Sec. 3.)

3.07.440 Protection of Employment Areas

(a) Except as provided in subsections (c),(d), and (e), in Employment Areas mapped pursuant to Metro Code section 3.07.450, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

(b) Except as provided in subsections (c), (d) and (e), a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

(c) A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

(d) A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

(1) The ordinance authorized those uses on January 1, 2003;

(2) Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and

(3) The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

(e) A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

(1) Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and

(2) Meet the Maximum Permitted Parking – Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 5. Ordinance 04-1040B, Sec. 2. Ordinance 10-1244B, Sec. 3.)

3.07.450 Employment and Industrial Areas Map

(a) The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.

(b) If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer (COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

(c) A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

(1) The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;

(2) The amendment will not reduce the employment capacity of the city or county;

(3) If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;

(4) The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;

(5) The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and

(6) If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

(d) A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

(1) The entire property is not buildable due to environmental constraints; or

(2) The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and

(3) The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by this title, exceeds the assessed value of the land by a ratio of 1.5 to 1.

(e) The COO shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection (c) or (d) of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

(f) After consultation with MPAC, the Council may issue an order suspending operation of subsection (c) in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.

(g) The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

(h) Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph (6) of subsection (c) of the section. To approve an amendment, the Council must conclude that the amendment:

(1) Would not reduce the employment capacity of the city or county;

(2) Would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;

(3) Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;

(4) Would not reduce the integrity or viability of a traded sector cluster of industries;

(5) Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and

(6) If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

(i) Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.

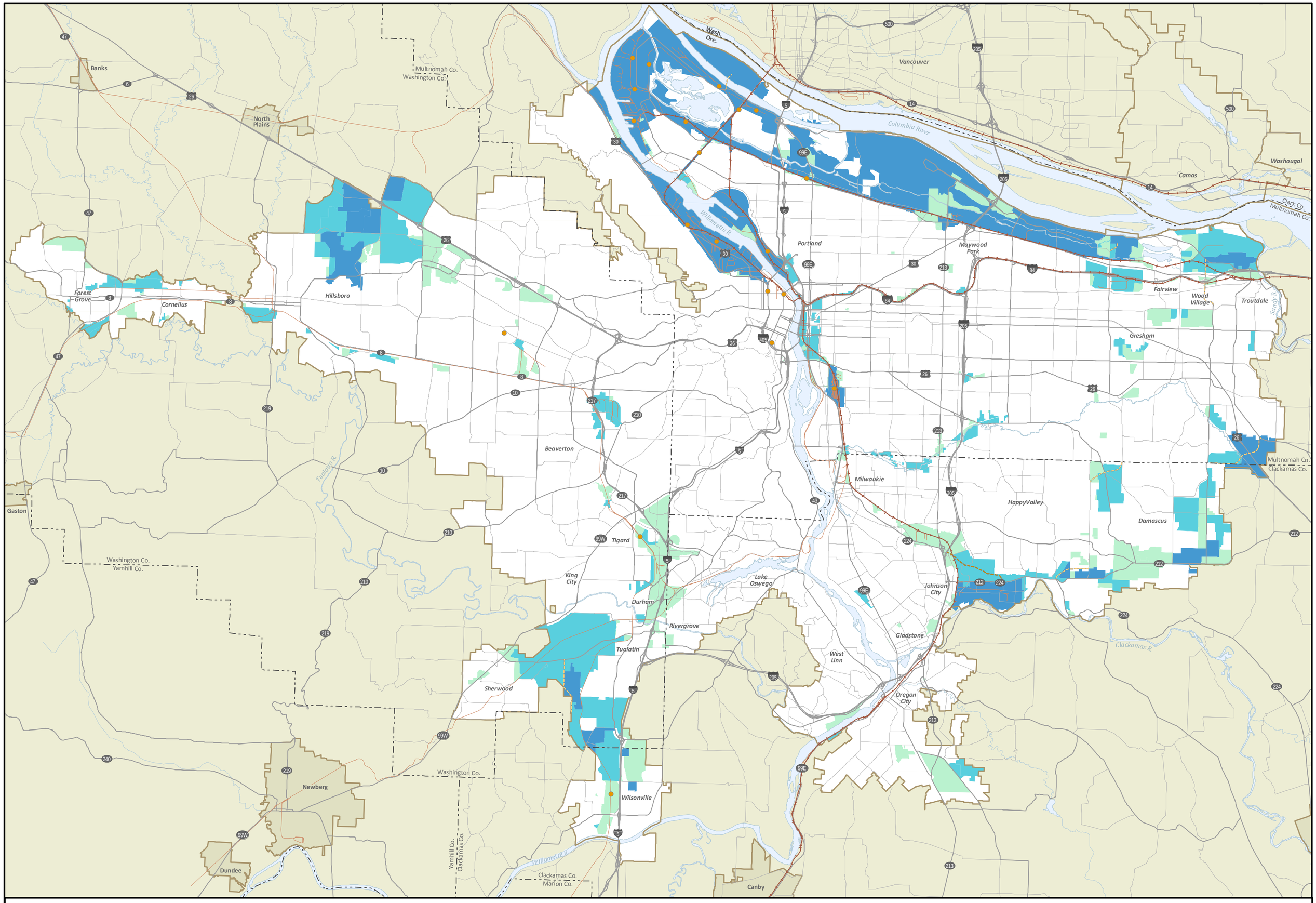
(j) The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection (f) to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.

(k) By January 31 of each year, the COO shall submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

(Ordinance 07-1137A, Sec. 2. Ordinance 10-1244B, Sec. 3. Ordinance 11-1264B, Sec. 1.)

Title 4 Employment and Industrial Areas Map as of October 29, 2014

(Ordinance 14-1336.)



Title 4, Industrial and Other Employment Areas

October 2014

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- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities

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Table 3.07-4

Clackamas County unincorporated
- Commercial
- Commercial Industrial

Lake Oswego
- General Commercial
- Highway Commercial

Troutdale
- General Commercial

Hillsboro
- General Commercial

Sherwood
- General Commercial

Tigard
- General Commercial
- Commercial Professional

Tualatin
- Commercial General

Wilsonville
- Planned Development Commercial

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 5. Ordinance 10-1244B, Sec. 3.)

Title 5: Neighbor Cities

Title 5 is repealed.

(Ordinance 97-715B, Sec. 1. Ordinance 10-1238A, Sec. 4.)

Title 6: Centers, Corridors, Station Communities and Main Streets

3.07.610 Purpose

The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

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

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 shall take the following actions:

(1) Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection (b);

(2) Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection (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 sub(d).

(b) The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, shall:

(1) Be consistent with the general location shown in the RFP 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 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 (a) of section 3.07.820 of this chapter.

(c) An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, shall 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 under Title 4 of this chapter, 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 shall consider the assessment completed under subsection (c) 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 3.07.640; and

(B) In Corridors and those Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area in Title 4 of this chapter, 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 3.08.230(a) and (b) of the RTFP, that includes:

(A) The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;

(B) A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; 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.

(e) A city or county that has completed all or some of the requirements of subsections (b), (c), and (d) 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.

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

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 (b) of section 3.07.620; and

(2) Adopted land use regulations to allow the mix and intensity of uses specified in 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 (b) of section 3.07.620;

(2) Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in 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 3.08.230 (a) and (b)of the RTFP, that includes:

(A) Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;

(B) A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; 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.

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

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

(a) A Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:

(1) Central City - 250 persons

(2) Regional Centers - 60 persons

(3) Station Communities - 45 persons

(4) Corridors - 45 persons

(5) Town Centers - 40 persons

(6) Main Streets - 39 persons

(b) Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:

(1) The 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 housings types to be vibrant and successful. The following mix of housing types is recommended for each:

(1) The types of housing listed in the "needed housing" statute, ORS 197.303(1);

(2) The types of housing identified in the city's or county's housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and

(3) Accessory dwellings pursuant to section 3.07.120 of this chapter.

(Ordinance 97-715B, Sec. 1. Ordinance 98-721A, Sec. 1. Ordinance 02-969B, Sec. 7. Ordinance 10-1244B, Sec. 5. Ordinance 15-1357.)

3.07.650 Centers, Corridors, Station Communities and Main Streets Map

(a) The Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title and is Metro's official depiction of their boundaries. The map shows the boundaries established pursuant to this title.

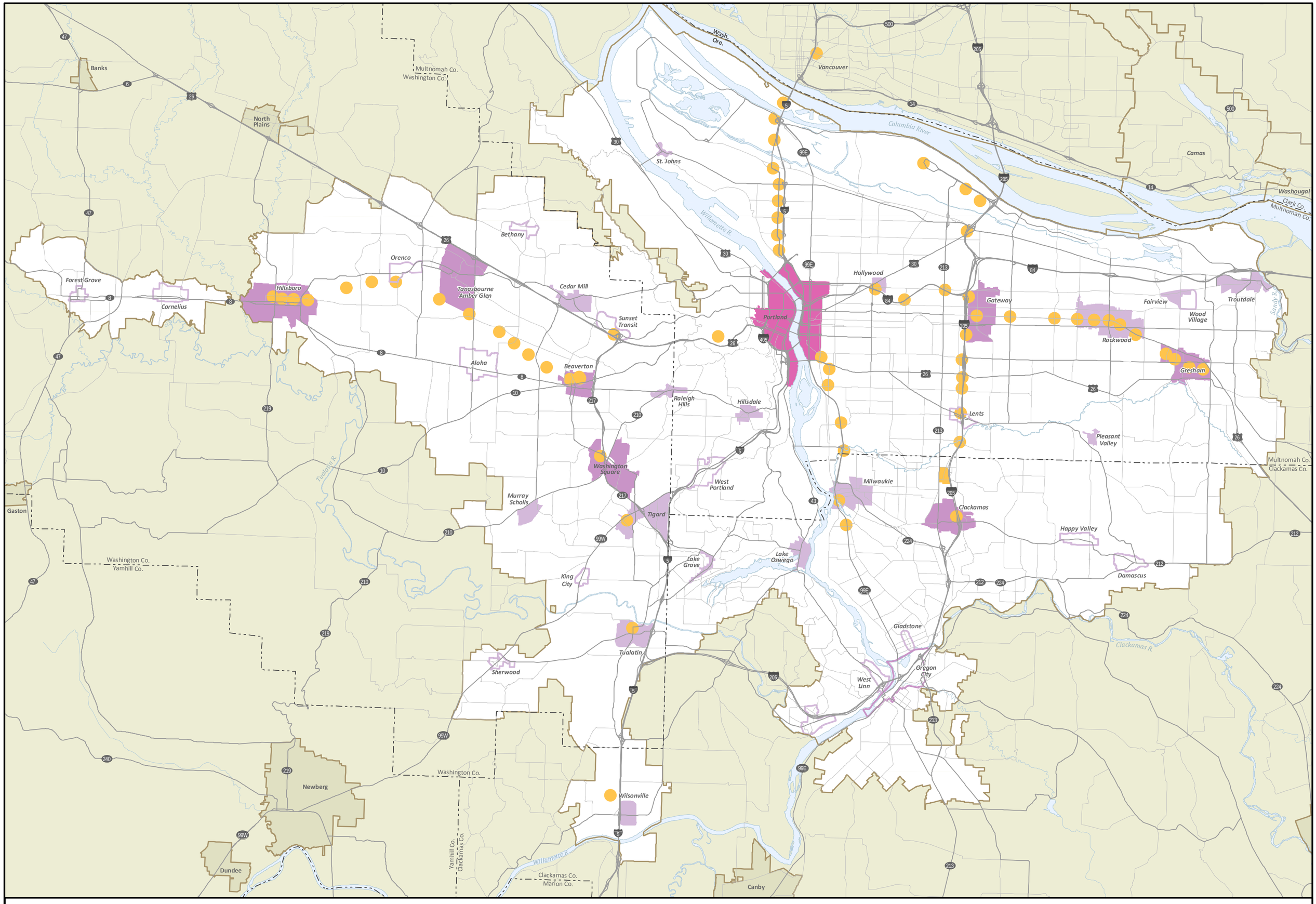
(b) A city or county may revise the boundary of a Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on the 2040 Growth Concept Map in the RFP. The city or county shall provide notice of its proposed revision as prescribed in subsection (b) of section 3.07.620.

(c) The COO shall revise the Centers, Corridors, Station Communities and Main Streets Map by order to conform the map to establishment or revision of a boundary under this title.

(Ordinance 02-969B, Sec. 7; Ordinance 10-1244B, Sec. 5; Ordinance 11-1264B, Sec. 1.)

Title 6 Centers, Corridors, Station Communities and Main Streets Map as of October 29, 2014

(Ordinance 14-1336.)



Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries

October 2014

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- Central city, adopted boundary
- Regional center, adopted boundary
- Town center, adopted boundary
- Regional center, conceptual boundary
- Town center, conceptual boundary
- Station communities, adopted boundary
- Station communities, conceptual boundary
- County boundaries
- Urban growth boundaries
- Neighbor cities

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Title 7: Housing Choice

3.07.710 Intent

The Regional Framework Plan 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 intent of Title 7 to implement these policies of the Regional Framework Plan.

(Ordinance 97-715B, Sec. 1. Ordinance 00-882C, Sec. 2. Ordinance 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.

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

3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

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

(a) Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.

(b) Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.

(c) Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

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

3.07.740 Inventory and Progress Reports on Housing Supply

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

(b) Local governments shall report their progress on increasing the supply of affordable housing to Metro on a form provided by Metro, to be included as part of the biennial housing inventory described in subsection (a). Local governments shall submit their first progress reports on July 31, 2007, and by April 15 every two years following that date. Progress reports shall include, at least, the following information:

(1) The number and types of units of affordable housing preserved and income groups served during the reporting period, as defined in Metro's form;

(2) The number and types of units of affordable housing built and income groups served during the reporting period;

(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.

(Ordinance 00-882C, Sec. 2. Ordinance 03-005A, Sec. 1. Ordinance 06-1129B, Sec. 2. Ordinance 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.

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

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

(Repealed, Ordinance 06-1129B, Sec. 2.)

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**
West Linn	**98**	**71**	**169**
Wilsonville	**100**	**80**	**180**
Wood Village	**16**	**1**	**17**

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*
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.

(Ordinance 00-882C, Sec. 2.)

Title 8: Compliance Procedures

3.07.810 Compliance With the Functional Plan

(a) The purposes of this chapter are to establish a process for ensuring city or county compliance with requirements of 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 amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after acknowledgement of the functional plan or amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan. The COO shall notify cities and counties of the acknowledgment date and compliance dates described in subsections (c) and (d).

(c) After one year following acknowledgment of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.

(d) Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. For the purposes of this subsection, "land use decision" shall have 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 deemed to comply with the functional plan 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 shall 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 deemed to comply with the functional plan as provided in subsection (e) only if the city or county provided notice to the COO as required by subsection (a) of section 3.07.820.

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

3.07.820 Review by the Chief Operating Officer

(a) A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 35 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.

(b) If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:

(1) Revise the proposed amendment as recommended in the COO's analysis;

(2) Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or

(3) Seek an exception pursuant to section 3.07.840.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Secs. 5, 6, 7. Ordinance 98-727C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 00-882C, Sec. 2. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7. Ordinance 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. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO shall 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 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 issue an order granting or denying the extension. The COO shall not grant more than two extensions of time. The COO shall 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. A term or condition must relate to the requirement of the functional plan to which the COO has granted the extension.

(d) The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall 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 Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance 97-715B, Sec. 1. Ordinance 98-727C, Sec. 2; Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 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 by filing an application on a form provided by the COO. Upon receipt of an application, the COO shall 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), the COO may grant an exception if:

(1) It is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;

(2) This 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 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 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 or 13 of this chapter; and

(3) This exception and other similar exceptions will not render the targets unachievable region-wide.

(d) The COO may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. A term or condition must relate to the requirement of the functional plan to which the COO grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

(e) The city or county applicant or a person who filed a written comment on the 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 Council shall hold a hearing to consider the appeal. After the hearing, the Council shall 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 Council's order as a land use decision described in ORS 197.015(10)(a)(A).

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

3.07.850 Enforcement of Functional Plan

(a) The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the 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, ordinances adopted by the city or county to implement the plan, or the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the COO or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection (b).

(b) If the Council decides there is good cause, the Council President shall set the matter for a public hearing before the Council within 90 days of its decision. The COO shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC and any person who requests a copy of such notices.

(c) The COO shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Council. The COO shall 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 Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Council decides the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or terms or conditions of an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

(1) Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or

(2) Includes a remedy authorized in ORS 268.390(7).

(e) The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

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

3.07.860 Citizen Involvement in Compliance Review

(a) Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection (a) of section 3.07.820. Such contact may be oral or in writing and may be made at any time.

(b) In addition to considering requests as described in (a) above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

(c) Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Public Engagement Review Committee (PERC), that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

(Ordinance 97-715B, Sec. 1. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7. Ordinance 15-1357.)

3.07.870 Compliance Report

(a) The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Functional Plan. The COO shall 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 Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, PERC, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:

(1) Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections (e) and (f) of section 3.07.810; or

(2) Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

(c) Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

(d) A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance 01-925E, Sec. 2. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7. Ordinance 15-1357.)

Title 9: Performance Measures

Title 9 is repealed.

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

TITLE 10: FUNCTIONAL PLAN DEFINITIONS

3.07.1010 Definitions

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

(a) "Balanced cut and fill" means no net increase in fill within the floodplain.

(b) “COO” means Metro’s Chief Operating Officer.

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

(d) "DBH" means the diameter of a tree measured at breast height.

(e) "Design flood elevation" means the elevation of the 100-year storm as defined in 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.

(f) "Design type" means the conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, neighborhoods, industrial areas, and employment areas.

(g) "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.

(h) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that 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 on the lot is defined as development, for the purpose of Title 13. Development does not include the following: (1)Stream enhancement or restoration projects approved by cities and counties; (2)Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Titles 3 and 13 of this functional plan; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

(i) "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.

(j) “Division” means a partition or a subdivision as those terms are defined in ORS chapter 92.

(k) "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.

(l) "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.

(m) "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.

(n) "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.

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

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

(q) "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.

(r) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan[1].

(s) "Habitat Conservation Area" or "HCA" means an area identified on the Habitat Conservation Areas Map and subject to the performance standards and best management practices described in Metro Code section 3.07.1340.

(t) "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.

(u) "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

[1] On file in the Metro Council office.

grasslands, riverine islands or deltas, and important wildlife migration corridors.

(v) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.

(w) "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 which establish standards for implementing a comprehensive plan.

(x) "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 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.

(y) "Land Conservation and Development Commission" or "LCDC" means the Oregon Land Conservation and Development Commission.

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

(aa) “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.

(bb) "Local program effective date" means the effective date of a city’s or county’s new or amended comprehensive plan and implementing ordinances 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 without making any amendments to its comprehensive plan or land use regulations, then the local program effective date shall be 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 the effective date of the city’s or county’s amendments to its

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

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

(dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.

(ee) “MPAC” means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.

(ff) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.

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

(hh) "Mixed-use development" includes areas of a mix of at least two of the following land uses and includes multiple tenants or ownerships: residential, retail and office. This definition excludes large, single-use land uses such as colleges, hospitals, and business campuses. Minor incidental land uses that are accessory to the primary land use should not result in a development being designated as "mixed-use development." The size 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.

(ii) "Native vegetation" or "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.

(jj) "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 planning Goal 5 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 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.

(kk) "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.

(ll) "Net vacant buildable land" means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within Habitat Conservation Areas; (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.

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

(nn) "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.

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

(pp) "Persons per acre" means the intensity of building development by combining residents per acre and employees per acre.

(qq) "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 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.

(rr) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.

(ss) “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 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.

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

(uu) "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.

(vv) "Regionally significant fish and wildlife habitat" means those areas identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted in Metro Code section 3.07.1320, as significant natural resource sites.

(ww) "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.

(xx) "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.

(yy) "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.

(zz) “Rural reserve” means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR 660 Division 27.

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

(bbb) "Straight-line distance" means the shortest distance measured between two points.

(ccc) "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.

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

(eee) "Title 3 Wetlands" means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, section 3.07.340(e)(3). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

(fff) "Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0510(5).

(ggg) "Urban development value" means the economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map referenced in Metro Code section 3.07.1340(e).

(hhh) "UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.

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

(jjj) "Urban reserve" means an area designated urban reserve by the Metro Council pursuant to OAR 660 Division 27.

(kkk) "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.

(lll) "Vacant land" means land identified in the Metro or local government inventory as undeveloped land.

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

(nnn) "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.

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

(ppp) "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]. 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.

(qqq) "Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.

(rrr) "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

[2] On file in Metro Council office.

Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), (May 2010).

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

(Ordinance 97-715B, Sec. 1. Ordinance 98-721A, Sec. 1. Ordinance 98-730C, Sec. 10. Ordinance 00-839, Sec. 1. Ordinance 00-869A, Sec. 2; Ordinance 02-972A, Sec. 1; Ordinance 05-1077C, Sec. 6; Ordinance 10-1244B, Sec. 9. Ordinance 15-1357.)

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1105 Purpose and Intent

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

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

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, 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 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);

(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;

(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:

(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);

(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;

(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 identify the general number, price and type of market and nonmarket-provided housing. The concept plan shall 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 water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of this chapter;

(6) Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;

(7) Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;

(8) Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for

comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;

(9) Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection (c) of section 3.07.1120; and

(10) Be coordinated with schools districts, including coordination of demographic assumptions.

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

(1) The designation of 2040 Growth Concept design types by the Metro Council;

(2) Conditions in the Metro ordinance that adds the area to the UGB; or

(3) Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

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

(Ordinance 98-772B, Sec. 2. Ordinance 99-818A, Sec. 3. Ordinance 02-969B, Sec. 11. Ordinance 06-1110A, Sec. 1. Ordinance 10-1238A, Sec. 5. Ordinance 11-1252A, Sec. 1. Ordinance 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 adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection (c) 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 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 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 prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;

(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 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 meet the standards for street connections in the Regional Transportation Functional Plan;

(8) Provision for the financing of local and state public facilities and services; and

(9) A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.

(d) The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using a method consistent with a Goal 14 analysis, within 30 days after adoption of new land use regulations for the area.

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

(c) A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010 of this chapter, or for a new public school;

(d) In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:

(1) A commercial use that is not accessory to industrial uses in the area; and

(2) A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

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

Title 12: Protection of Residential Neighborhoods

3.07.1210 Purpose and Intent

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

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

3.07.1220 Residential Density

Metro shall not require any city or county to authorize an increase in the residential density of a single-family neighborhood in an area mapped solely as Neighborhood.

(Ordinance 02-969B, Sec. 3. Ordinance 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 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 adopt limitations on the scale of commercial services in Neighborhood Centers. In a Neighborhood Center, a city or county shall not approve:

    (1) A commercial retail use with more than 20,000 square feet of gross leasable area in a single building; or

    (2) Office commercial uses with more than 10,000 square feet of gross leasable area in a single building or on a single lot or parcel.

(Ordinance 02-969B, Sec. 3. Ordinance 15-1357.)

3.07.1240 Access to Parks and Schools

(a) Each city and county shall, within two years following adoption by the Metro Council of a process and criteria for such standards, establish a level of service standard for parks and greenspaces that calls for a park facility within a specified distance of all residences.

(b) To make parks and greenspaces more accessible to residents of Neighborhoods and all residents of the region, each city and county shall provide for access to parks and greenspaces by walking, biking and transit, where transit is available or planned.

(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, 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 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.

(Ordinance 02-969B, Sec. 3. Ordinance 15-1357.)

Title 13: Nature In Neighborhoods

3.07.1310 Intent

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

(a) Will achieve its purpose through conservation, protection, and appropriate restoration of riparian and upland fish and wildlife habitat through time, using a comprehensive approach that includes voluntary, incentive-based, educational, and regulatory elements;

(b) Balances and integrates goals of protecting and enhancing fish and wildlife habitat, building livable Region 2040 communities, supporting a strong economy, controlling and preventing water pollution for the protection of the public health and safety, and complying with federal laws including the Clean Water Act and the Endangered Species Act;

(c) Includes provisions to monitor and evaluate program performance over time to determine whether the program is achieving the program's objectives and targets, to determine whether cities and counties are in substantial compliance with this title, and to provide sufficient information to determine whether to amend or adjust the program in the future; and

(d) Establishes minimum requirements and is not intended to repeal or replace existing requirements of city and county comprehensive plans and implementing ordinances to the extent those requirements already meet the minimum requirements of this title, nor is it intended to prohibit cities and counties from adopting and enforcing fish and wildlife habitat protection and restoration programs that exceed the requirements of this title.

(Ordinance 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 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 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 be interpreted as references to the maps themselves and to the underlying GIS data that the maps represent.

(a) The Regionally Significant Fish and Wildlife Habitat Inventory Map (hereinafter the "Inventory Map"), attached hereto[3], identifies the areas that have been

[3] On file in the Metro Council office and copies available from the Metro Data Resource Center.

determined to contain regionally significant fish and wildlife habitat. The 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[4], 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, or a map that substantially complies with the Habitat Conservation Areas map. For such cities and counties, the Habitat Conservation Areas Map further identifies, subject to the map verification process described in 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 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.

(2) Table 3.07-13b 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. Metro Code Section 3.07.1360 describes the procedures for how Table 3.07-13b and Metro Code Section 3.07.1340 shall be applied in such areas.

[4] On file in the Metro Council office and copies available from the Metro Data Resource Center.

(c) Exempt International Marine Terminals

(1) Marine dependent properties which would otherwise have been mapped as Habitat Conservation Areas do not appear on the Habitat Conservation Areas Map because the Metro Council concluded, based on its analysis of the economic, social, environmental, and energy implications of its decision, that the economic importance of such properties far outweighed the environmental importance of the properties as fish and wildlife habitat. The Metro Council applied the criteria described in subsection (c)(2) of this section to conclude that the following properties should not be considered Habitat Conservation Areas:

(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.

(Ordinance 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 apply the requirements of this title with respect to areas identified as riparian habitat on the Inventory Map and areas identified as upland wildlife habitat on the 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"), promulgated by LCDC, except that:

(1) A city or county shall apply the requirements of division 23 of OAR chapter 660 in order to adopt comprehensive plan amendments or land use regulations that (i) would otherwise require compliance with division 23 of OAR chapter 660 but for the adoption of this title (i.e., amendments or regulations adopted to protect Goal 5 resources), and (ii)will limit development in areas not identified as riparian habitat on the Inventory Map, unless such provisions (a) are part of a program intended to comply with Metro Code Section 3.07.1330(b)(3) and apply only to areas identified as upland wildlife habitat on the 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 Inventory Map that are brought 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 (a) apply to areas identified as upland wildlife habitat on the Inventory Map but not identified as riparian habitat on the Inventory Map, (b) limit development in order to protect fish or wildlife habitat, and (c) were adopted in compliance with division 23 of OAR chapter 660, shall not repeal such amendments or regulations, nor shall 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 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, and shall 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 either:

(1) Amend its comprehensive plan and implementing ordinances to adopt the Title 13 Model Ordinance and the Metro Habitat Conservation Areas Map, and demonstrate compliance with the provisions of (a) Metro Code 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 (b) Metro Code Section 3.07.1340(a)(8), related to the restoration of Habitat Conservation Areas when developed property is undergoing significant redevelopment;

(2) Demonstrate that its existing or amended comprehensive plan and existing, amended, or new implementing ordinances 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)(1) or (b)(2). A city or county developing such a program:

(A) Shall 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 and on the use of incentive based, voluntary, education, acquisition, and restoration programs, such as:

(i) An existing tree protection ordinance;

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

(4) District Plans

(a) 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 3.07.1330(b)(1) or Metro Code Section 3.07.1330(b)(2). If a city or county adopts one or more district plans pursuant to this paragraph, it shall demonstrate that, within each district plan area, the district plan complies with Metro Code Section 3.07.1330(b)(3). District plans shall be permitted under this subsection 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.

(b) The City of Portland shall develop a District Plan that complies with Metro Code Section 3.07.1330(b)(4)(a), 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 to comply with the maps and provisions of the TBNRCC Goal 5 Program, attached hereto[5] 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 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, the following conditions must be satisfied:

(a) Within the compliance timeline described in 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 7 of the Tualatin Basin Program;

(b) Clean Water Services approves and begins implementing its Healthy Streams Plan;

(c) 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 continue to coordinate its activities with Metro and cooperate with Metro on the development of regional public information about the Nature in Neighborhoods Initiative;

(d) 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 Inventory Map. Table 3.07-13c provides examples of the types of habitat-friendly

[5] On file in the Metro Council office and copies available from the Metro Planning Department.

development practices that shall be encouraged and considered;

(e) The city or county has adopted provisions to allow for the reduction of the density and capacity requirements of Title 1 of the Urban Growth Management Functional Plan, Metro Code Sections 3.07.110 to 170, consistent with Metro Code Section 3.07.1330(h). Particularly, the provisions shall (1) apply only to properties that were within the Metro urban growth boundary on January 1, 2002; (2) require the protection of regionally significant habitat on the property, such as via a public dedication or restrictive covenant; and (3) 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 part (2) 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);

(f) The city or county complies with the provisions of Metro Code Section 3.07.1330(b)(1) to (b)(3) as those provisions apply to upland wildlife habitat in territory added to the Metro urban growth boundary after December 28, 2005. For example, (1) each city and county shall either adopt and apply Metro's Title 13 Model Ordinance to upland wildlife habitat in new urban areas, (2) substantially comply with the requirements of Metro Code Section 3.07.1340 as it applies to upland wildlife habitat in new urban areas, or (3) 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

(g) 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 relied upon by a city or county to comply with this

title shall contain clear and objective standards. A standard shall be considered clear and objective if it meets any one of the following criteria:

(1) It is a fixed numerical standard, such as fixed distance (e.g. "50 feet") or land area (e.g. "1 acre");

(2) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or

(3) It is 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 implementing ordinances 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 process:

(1) Specify 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) Require 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 subsection (c) of this section.

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

(1) Each city and county in the region shall:

(A) Identify provisions in the city’s or county’s comprehensive plan and implementing ordinances that prohibit or limit the use of the habitat-friendly development practices such as those described in Table 3.07-13c; and

(B) Adopt amendments to the city's or county's comprehensive plan and implementing ordinances to remove the barriers identified pursuant to subsection (e)(1)(a)of this section, and shall remove such barriers so that such practices may be used, where practicable, in all regionally significant fish and wildlife habitat; provided, however that such practices shall 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 provide technical assistance to cities and counties to comply with the provisions of this subsection (e) of this section.

(f) Cities and counties shall hold at least one public hearing prior to adopting comprehensive plan amendments, implementing ordinances, and maps implementing this title or demonstrating that existing city or county comprehensive plans, implementing ordinances, and maps substantially comply with this title. The proposed comprehensive plan amendments, implementing ordinances, and maps shall be available for public review at least 45 days prior to the public hearing.

(g) The comprehensive plan provisions and implementing ordinances that each city or county amends, adopts, or relies on to comply with this title shall 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. 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 process shall:

(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;

(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 Habitat Protection.

(1) Notwithstanding the provisions of Metro Code Section 3.07.120, cities and counties may approve a subdivision or development application that will result in a density below the minimum density for the zoning district if:

(A) The property lot or parcel was within the Metro UGB on January 1, 2002;

(B) An area of the property lot or parcel to be developed has been identified as regionally significant fish and wildlife habitat on the Metro Inventory Map or as a significant resource on a local Goal 5 riparian, wetlands, or wildlife resource inventory map that had been acknowledged by the LCDC prior to December 28, 2005; and

(C) Such a decision will directly result in the protection of the remaining undeveloped regionally significant fish and wildlife habitat or significant resource located on the property lot or parcel, such as via a public dedication or a restrictive covenant.

(2) The amount of reduction in the minimum density requirement that may be approved under this

subsection (h) of this section shall be calculated by subtracting the number of square feet of regionally significant fish and wildlife habitat or significant resource that is permanently protected under subsection (h)(1)(C) of this section from the total number of square feet that the city or county otherwise would use to calculate the minimum density requirement for the property.

(3) If a city or county approves a subdivision or development application that will result in a density below the minimum density for the zoning district pursuant to subsection (h)(1) of this section, then such city or county shall:

(A) Be permitted an offset against the capacity specified for that city or county in Table 3.07-1 of the Metro Code. The amount of such offset shall be calculated by subtracting the 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.

(Ordinance 05-1077C, Sec. 5. Ordinance 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 to comply, in whole or in part, with Metro Code Section 3.07.1330(b)(2):

(a) City and county comprehensive plans and implementing ordinances shall conform to the following performance standards and best management practices:

(1) Habitat Conservation Areas shall be protected, maintained, enhanced, and restored as specified in this 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 performance standards and best management practices of this Metro Code Section 3.07.1340 shall 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 that are approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544e(b) and 544f(h) through 544f(k).

(4) The performance standards and best management practices of this Metro Code Section 3.07.1340 shall not apply to any use of residential

properties if, as of the local program effective date:

(A) Construction of the residence was completed in compliance with all applicable local and state laws and rules for occupancy as a residence or the residence had been occupied as a residence for the preceding ten years; and

(B) Such uses would not have required the property owner to obtain a land use approval or a building, grading, or tree removal permit from their city or county.

(5) Habitat Conservation Areas within publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development shall be protected and managed 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 not be planted in any Habitat Conservation Area. The removal of invasive non-native or noxious vegetation from Habitat Conservation Areas shall be allowed. The planting of native vegetation shall be encouraged in Habitat Conservation Areas.

(7) Except as provided in subsection (a)(8) of this section, routine repair, maintenance, alteration, rehabilitation, or replacement of existing structures, roadways, driveways, utilities, accessory uses, or other development within Habitat Conservation Areas may be allowed provided that:

(A) The project is consistent with all other applicable local, state, and federal laws and regulations;

(B) The project will not permanently or irreparably result in more developed area within a Habitat Conservation Area than the area of the existing development; and

(C) Native vegetation is maintained, enhanced and restored, if disturbed; other vegetation is replaced, if disturbed, with vegetation other than invasive non-native or noxious vegetation; and the planting of native

vegetation and removal of invasive non-native or noxious vegetation is encouraged.

(8) Notwithstanding subsection (a)(7) of this section, when a city or county exercises its discretion to approve zoning changes to allow a developed property that contains a Habitat Conservation Area to (1) change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (2) increase the type or density and intensity of development in any area, then the city or county shall apply the provisions of this 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 Areas that is required to implement a Federal Aviation Administration (FAA)-compliant Wildlife Hazard Management Plan (WHMP) on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be allowed provided that mitigation for any such projects is completed in compliance with mitigation requirements adopted pursuant to subsections (b)(1), (b)(2)(C), and (b)(3) of this section. In addition, habitat mitigation for any development within Habitat Conservation Areas on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be permitted at any property located within the same 6th Field Hydrologic Unit Code subwatershed as delineated by the Unites 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 Areas located in Multnomah County Drainage District No. 1, Peninsula Drainage District No. 1, Peninsula Drainage

District No. 2, and the area managed by the Sandy Drainage Improvement Company, routine operations, repair, maintenance, reconfiguration, rehabilitation, or replacement of existing drainage 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 547 or 554 or Titles 33 or 44 of the Code of Federal Regulations, shall be allowed provided that:

(A) The project is consistent with all other applicable local, state, and federal laws and regulations;

(B) 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 shall contain review standards applicable to development in all Habitat Conservation Areas that include:

(1) Clear and objective development approval standards consistent with Metro Code Section 3.07.1330(c) that protect Habitat Conservation Areas but which allow limited development within High Habitat Conservation Areas, slightly more development in Moderate Habitat Conservation Areas, and even more development in Low Habitat Conservation Areas. Such standards shall allow (a) property owners to consider reduced building footprints and the use of minimal excavation foundation systems (e.g., pier, post or piling foundation), and (b) the flexible application of local code requirements that may limit a property owner's ability to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. The habitat-friendly development practices described in Table 3.07-13c, which are intended to minimize the magnitude of the impact of development in Habitat Conservation Areas, shall be allowed, encouraged, or required to the extent that cities and counties can develop clear and objective standards for their use, 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 require that all development in Habitat Conservation Areas be mitigated to restore the ecological functions that are lost or damaged as a result of the development. Standards that meet the requirements of this subsection and Metro Code Section 3.07.1330(c) are provided in Section (7) of the Metro Title 13 Model Ordinance[6]; and

(2) Discretionary development approval standards consistent with Metro Code Section 3.07.1330(d) that comply with subsections (b)(2)(A), (b)(2)(B), and (b)(2)(C) of this section. Standards that meet the requirements of this subsection (b)(2) and

[6] On file in the Metro Council office and copies available from the Metro Planning Department.

Metro Code Section 3.07.1330(d) are provided in Section (8) of the Metro Title 13 Model Ordinance.

(A) Avoid Habitat Conservation Areas.

(i) Development may occur within a Habitat Conservation Area only if a property owner demonstrates that no practicable alternatives to the requested development exist which will not disturb the Habitat Conservation Area;

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

(iii) Cities and counties shall allow flexibility in the application of local code requirements that may limit a property owner's ability to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. Property owners shall also consider reduced building footprints and use of minimal excavation foundation systems (e.g., pier, post or piling foundation). The use of the techniques described in this paragraph shall be part of the alternatives analysis to determine whether any alternative to development within the Habitat Conservation Area is practicable; and

(B) Minimize Impacts on Habitat Conservation Areas and Water Quality.

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

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

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

When development occurs, require mitigation to restore the ecological functions that were

lost or damaged as a result of the development, after taking into consideration the property owner's efforts to minimize the magnitude of the detrimental impacts through the use of the techniques described in Table 3.07-13c and through any additional or innovative techniques.

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

(c) City and county comprehensive plans and implementing ordinances shall include procedures to consider claims of hardship and to grant hardship variances for any property demonstrated to be converted to an unbuildable lot by application of any provisions implemented to comply with the requirements of this title.

(d) Administering the Habitat Conservation Areas Map and Site-Level Verification of Habitat Location.

(1) Each city and county shall be 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 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 establish a verification process consistent with subsections (d)(4) through (d)(6) of this section. The site-level verification of Habitat Conservation Areas is a three-step process. The first step is determining the boundaries of the habitat areas on the property, as provided in subsection (d)(4) of this section. The second step is determining the urban development value of the property, as provided in subsection (d)(5) of this section. 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 Areas, or none at all, as provided in subsection (d)(6) of this section.

(4) Habitat Boundaries.

(A) Locating riparian habitat and determining its habitat class is a five-step process.

(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 Wetland Inventory map (if completed) and on the Metro 2004 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall 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 be as identified on the Metro Vegetative Cover Map, attached hereto[7] and incorporated herein by reference. 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.

(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% (using the methodology described in the Appendix to Exhibit A to Ordinance 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

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

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 of concern, as depicted on the Metro Habitats of Concern Map, attached hereto[8] and incorporated herein by reference, 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 be as identified in Metro's habitat inventory 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 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 not be identified as Habitat Conservation Areas;

(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, and (2)

[8] On file in the Metro Council office and copies available from the Metro Data Resource Center.

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 Areas, as shown on the Habitat Conservation Areas Map.

(5) 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 hereto[9] and incorporated herein by reference. 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 shall 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 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 significant educational or medical facility and, for that reason, should be designated as of high urban development value because of the economic contributions the facility provides to the citizens of the region.

[9] On file in the Metro Council office and copies available from the Metro Data Resource Center.

(i) The following facilities are regionally significant educational or medical facilities, as further identified on the Regionally Significant Educational or Medical Facilities Map, attached hereto[10]:

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;

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

[10] On file in the Metro Council office.

subsection (d)(5)(B)(i) of this section in the future by adopting an ordinance amending that section if the 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.

(5) Cross-Referencing Habitat Class With Urban Development Value. City and county verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Tables 3.07-13a and 3.07-13b.

(Ordinance 05-1077C, Section 5.)

3.07.1350 Claims Pursuant to ORS 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 administrative responsibility for these claims, Metro seeks the authority and cooperation of cities and counties in the evaluation and settlement of claims.

(b) Provided that cities and counties meet the requirements set out below, Metro shall indemnify a city or county for any claim made against a city or county based on its implementation of the requirements of Metro Code Sections 3.07.1310 through 3.07.1370. In order to receive the benefits of this provision, a city or county must:

(1) Upon receipt of a written demand for compensation pursuant to ORS 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 forward a copy of the demand to Metro no later than seven (7) days following receipt of the demand;

(2) Reasonably cooperate with Metro throughout Metro's consideration and disposition of the claim, including promptly providing Metro with any information related to the property in question, to an assessment of its fair market value, or to the city's or county's adoption of the comprehensive plan amendment or land use regulation that is the basis of the demand made pursuant to ORS 195.305; and

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

grant Metro sufficient authority to implement, on the city or county's behalf, Metro's recommendation regarding the disposition of the claim.

(Ordinance 05-1077C, Section 5. Ordinance 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:

(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;

(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.

(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.

(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

(2) At least 45 days prior to a city's or county's final 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 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 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 days prior to the special district's final 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 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 comply with this section. Such data shall include:

(A) Adopted and revised Local Wetland 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 Local Wetland 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 Inventory 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.

(Ordinance 05-1077C, Sec. 5. Ordinance 15-1357.)

3.07.1370 Future Metro Urban Growth Boundary Expansion Areas

The Metro 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 Areas 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 be designated as Habitat Conservation Areas 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 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 territory is brought within the Metro UGB, consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., Metro shall update its inventory of regionally significant fish and wildlife habitat for such territory using the same methodology used by Metro to establish the Metro Inventory Map. Based on the updated Metro Inventory Map, Metro shall prepare a Habitat Conservation Areas Map for such new territory, as described in Metro Code Section 3.07.1320(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 such territory is brought within the Metro UGB, consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., Metro shall prepare an inventory of regionally significant fish and wildlife habitat for such territory using the same methodology used by Metro to establish the Metro Inventory Map. Upon adoption of such inventory, Metro shall update its Metro Inventory Map to include such information. Based on the updated Metro Inventory Map, Metro shall prepare a Habitat Conservation Areas Map for such new territory, as described in Metro Code Section 3.07.1320(b), using the 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 designations will also change as a result of the 2040 Design Type changes during such planning.

(Ordinance 05-1077C, Sec. 5.)

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

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	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 types: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

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

[3] Tertiary 2040 design types: Neighborhoods, Corridors

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

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

Fish & wildlife habitat classifi-cation	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).

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

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

[3] Tertiary 2040 design types: Neighborhoods, Corridors

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

Table 3.07-13c. Habitat-friendly Development Practices

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.
2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.
3. Incorporate stormwater management in road right-of-ways.
4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.
5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.
6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.
7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.
8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.
9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.
10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.
11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.
12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.
13. Use shared driveways.
14. Reduce width of residential streets, depending on traffic and parking needs.
15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).
18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.
20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage
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.
Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices
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>25% [6]	Class II if slope>25% [6]	Class II [6]
150′-200′		Class II if slope>25% [6]	Class II if slope>25% [6]	Class II if slope>25% [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 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% 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% 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 of 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 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 of concern as described in Metro’s Technical Report for Fish and Wildlife. Examples of habitats of 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 be 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.

[8] If development prior to the effective date of this title 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 also be considered a developed flood area and shall 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
Performance Objective 1: Preserve and improve streamside, wetland, and flood area habitat and connectivity.	1a. *10% increase in forest and other vegetated acres within 50 feet* of streams (on each side) and wetlands in each sub-watershed over the next 10 years (2015).	1a. 2004 Baseline Condition (regional data): 64% vegetated 14,000 vegetated acres	Percentage of acres within 50 feet of streams (on each side) and wetlands with any vegetation
		10% increase: 70% vegetated 1,400 acre increase in vegetation over 10 years	Percentage of acres within 50 feet of streams (on each side) and wetlands with forest canopy
	1b. *5% increase in forest and other vegetated acres within 50 to 150 feet of streams* (on each side) and wetlands in each subwatershed over the next 10 years (2015).	1b. 2004 Baseline Condition (regional data): 59% vegetated 15,250 vegetated acres	Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with any vegetation
		5% increase: 62% vegetated 760 acre increase in vegetation over 10 years	

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
	1c. No more than *10% increase in developed flood area acreage* in each subwatershed over the next 10 years (2015).	1c. 2004 Baseline Condition (regional data): 10% of all flood area acres are developed 3,450 total acres of developed flood areas 10% increase: 3,800 total acres of developed flood areas	Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with forest canopy 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.

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
Performance Objective 2: Preserve large areas of contiguous habitat and avoid fragmentation.	2a. *Preserve 75% of vacant Class A and B* 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	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
		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	
		80% retention: 106 upland habitat patches that contain 30 acres or more of upland habitat	
Performance Objective 3: Preserve and improve connectivity for wildlife between riparian corridors and upland wildlife	3a. *Preserve 90% of forested wildlife habitat acres located within 300 feet of surface streams* in each subwatershed over the next 10 years (2015).	3a. 2004 Baseline Condition: 28,300 acres within 1,453 patches of forested wildlife habitat located within 300 feet of surface streams	Number and miles of all wildlife corridors Corridor quality: % of habitat acres within corridors with a vegetative

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
habitat.		90% retention: 25,500 acres of forested wildlife habitat located within 300 feet of surface streams	width of 200 ft Acres of wildlife patches with a connectivity score of 3 or greater 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.

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).	3b. 2004 Baseline Condition: 14,400 acres within 1,633 patches of non-forested wildlife habitat located within 300 feet of surface streams 80% retention: 11,500 acres of non-forested wildlife habitat located within 300 feet of surface streams	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).	4a. 2004 Baseline Condition: 33% of all habitat designated as HOCs 26,700 total acres of HOCs	Number of acres of wetland Number of acres of white oak woodland Number of acres of

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
		95% retention: 25,400 total acres of HOCs	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
Implementation Objective A: Increase the use of habitat-friendly development throughout the region	Number of jurisdictions that allow or require LID Number of jurisdictions providing LID incentives Percentage of region in forest canopy Percentage of impervious area B-IBI (benthic index of biological integrity) scores

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
Implementation Objective B: Increase restoration and mitigation actions to compensate of adverse effects of new and existing development on ecological function	Number of restoration projects in one year Number of mitigation projects in one year Acres and distribution by resource class of habitat inventory Number of culverts that need improvement Number of watersheds in region with adopted action plans		

(Ordinance 05-1077C, Sec. 5.)

TITLE 14: URBAN GROWTH BOUNDARY

3.07.1405 Purpose

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

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

3.07.1410 Urban Growth Boundary

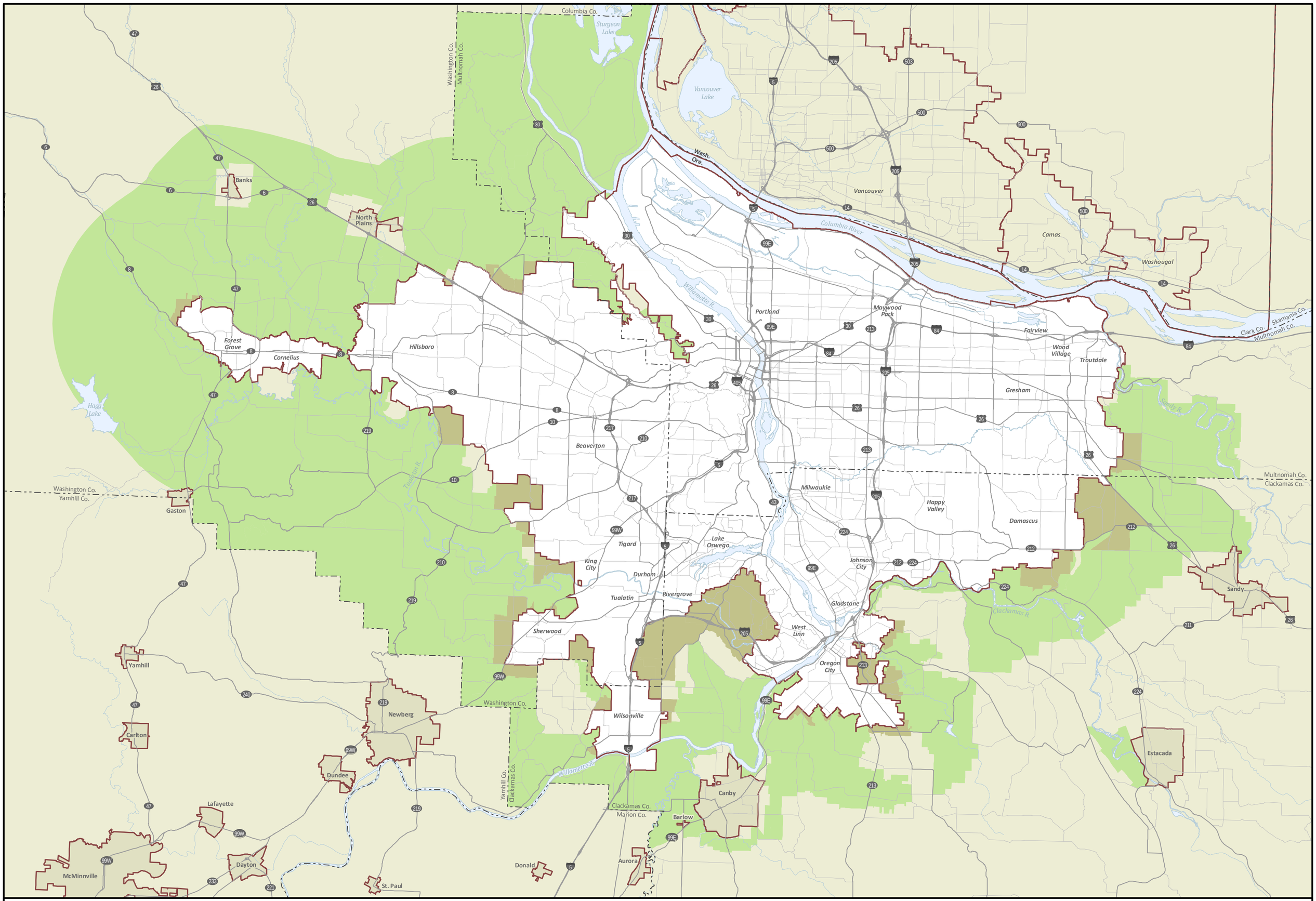
(a) The UGB for the metropolitan area is incorporated into this title and is depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Cities and counties within the Metro boundary shall depict the portion of the UGB, if any, that lies within their boundaries on their comprehensive plan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

(b) Urban and Rural Reserves are depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Amendments to the UGB made pursuant to this title shall be based upon this map.

(Ordinance 10-1244B, Sec. 12. Ordinance 11-1264B, Sec. 3. Ordinance 15-1357.)

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

(Ordinance 14-1336.)



Title 14, Urban Growth Boundary

October 2014

0 1 2 4 miles

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors are appreciated.

- County boundaries
- Urban growth boundaries
- Neighbor cities
- Rural reserve
- Urban reserve

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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 Council shall make legislative amendments 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, 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 3.07.1465.

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

(Ordinance 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. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) 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 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 Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall 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) The Council may consider land not designated urban or rural reserve for possible addition to the UGB only if it determines that:

(1) Land designated urban reserve cannot reasonably accommodate the need established pursuant to subsection (b) of this section; or

(2) The land is subject to a concept plan approved pursuant to section 3.07.1110 of this chapter, involves no more than 50 acres not designated urban or rural reserve and will help the concept plan area urbanize more efficiently and effectively.

(e) The Council may not add land designated rural reserve to the UGB.

(f) The 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.

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

3.07.1430 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 COO 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. 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 Council.

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the COO 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.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465. 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 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 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 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, the COO shall 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.

(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 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 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 provide the following information to participants at the beginning of the hearing:

The criteria applicable to major amendments and the procedures for the hearing;

(1) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and

(2) 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 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.

(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 (7) 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 (7) 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, who 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 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 submit a proposed order, with findings of fact and conclusions of law and the record

of the hearing, to the COO, who shall 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 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 COO 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 COO. The 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 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.

(Ordinance 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 Council President will:

(1) Set the matter for a public hearing before the 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 submit a report and recommendation on the application to the 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 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 Council President shall 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 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 Council President grants a continuance, the hearing shall 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 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 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 Council President grants the request, the record shall be left open for at least seven (7) days. Any participant may respond to new evidence during the period the record is left open.

(h) The 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 Council shall 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.

(Ordinance 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. 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). An applicant under section 3.07.1430 must demonstrate compliance with this purpose and these limitations.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c), (d), (e), and (f) of section 3.07.1425. The applicant shall also demonstrate that:

(1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;

(2) If the amendment would add land for public school facilities, the coordination required by subsection (c)(5) of section 3.07.1120 of this chapter has been completed; and

(3) If the amendment would add land for industrial use pursuant to section 3.07.1435, a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.

(c) If the application was filed under section 3.07.1435, the applicant shall demonstrate that the amendment is consistent with any concept plan for the area developed pursuant to section 3.07.1110 of this chapter.

(d) To facilitate implementation of the Metropolitan Greenspaces Master Plan of 1992, the Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Council designates

the land to be added for housing, it shall designate an appropriate average density per net developable acre.

(Ordinance 10-1244B, Sec. 12. Ordinance 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 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 subsection (d) of section 3.07.1430.

(b) The COO 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 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 be provided as prescribed in section 3.07.1465.

(d) The COO shall review the application for compliance with the criteria in section 3.07.1450 and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The COO 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 COO's order to the 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 3.07.1465.

(g) Following the hearing, the Council shall uphold, deny or modify the COO'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 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 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 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, 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 (2) acres of land available for housing to the UGB, Metro shall designate an appropriate average density per net developable acre for the area.

(g) The COO 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 10-1244B, Sec. 12.)

3.07.1455 Conditions of Approval

(a) Land added to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 shall be subject to the requirements of sections 3.07.1120 and 3.07.1130 of this chapter.

(b) If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it shall:

(1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11 of this chapter. If local governments have an agreement in a concept plan developed pursuant to Title 11 that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.

(2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.

(3) Establish the boundaries of the area that shall be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB.

(4) Establish the time period for city or county compliance with the requirements of Title 11, which shall be two (2) years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.

(c) If the Council amends the UGB pursuant to any of the sections 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. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter.

(Ordinance 10-1244B, Sec. 12. Ordinance 15-1357.)

3.07.1460 Fees

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

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

(c) Before a hearing is scheduled, an applicant shall submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant shall submit the fee deposit with the application.

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

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

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

3.07.1465 Notice Requirements

(a) For a proposed legislative amendment under section 3.07.1420, the COO shall provide notice of the public hearing in the following manner:

(1) In writing to the Department of Land Conservation and Development and local governments of the Metro region at least 35 days before the first public hearing on the proposal; and

(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 website.

(b) For a proposed major amendment under sections 3.07.1430 or 3.07.1435, the COO shall provide notice of the hearing in the following manner:

(1) In writing at least 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;

(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 COO on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and

(7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;

(8) For proposed major amendments only:

(A) An explanation of the proposed boundary change;

(B) A list of the applicable criteria for the proposal; and

(C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond

to the issue precludes an appeal based on the issue.

(9) For the owners of property described in subsection (b)(1)(C) of this section, the information required by ORS 268.393(3).

(d) For a proposed minor adjustment under section 3.07.1445, the COO shall provide notice in the following manner:

(1) In writing to the director of the Department of Land Conservation and Development at least 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 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 COO shall notify each county and city in the district of each amendment of the UGB.

(Ordinance 10-1244B, Sec. 12. Ordinance 15-1357.)

CHAPTER 3.08[1]

REGIONAL TRANSPORTATION FUNCTIONAL PLAN[2]

SECTIONS	TITLE
3.08.010	Purpose of Regional Transportation Functional Plan
TITLE 1:	**TRANSPORTATION SYSTEM DESIGN**
3.08.110	Street System Design
3.08.120	Transit System Design
3.08.130	Pedestrian System Design
3.08.140	Bicycle System Design
3.08.150	Freight System Design
3.08.160	Transportation System Management and Operations
TITLE 2:	**DEVELOPMENT AND UPDATE OF TRANSPORTATION SYSTEM PLANS**
3.08.210	Transportation Needs
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TITLE 3:	**TRANSPORTATION PROJECT DEVELOPMENT**
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3.08.610	Metro Review of Amendments to Transportation System Plans
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3.08.630	Exception from Compliance
3.08.640	Exemptions
TITLE 7:	**DEFINITIONS**
3.08.710	Definitions

[1] Metro Code Chapter 3.08 formerly called Affordable Housing Technical Advisory Committee (Repealed Ord. 00-860A § 2).

[2] Metro Code Chapter 3.08 now called The Regional Transportation Functional Plan (Ordinance No. 10-1241B, § 5, adopted 06/10/10, effective 09/08/10).

3.08.010 Purpose of Regional Transportation Functional Plan

A. The Regional Transportation Plan establishes an outcomes-based framework that is performance-driven and includes policies, objectives and actions that direct future planning and investment decisions to consider economic, equity and environmental objectives. The principal performance objectives of the RTP are improved public health, safety and security for all; attraction of jobs and housing to downtowns, main streets, corridors and employment areas; creating vibrant, livable communities, sustaining the region's economic competitiveness and prosperity; efficient management to maximize use of the existing transportation system; completion of the transportation system for all modes of travel to expand transportation choices; increasing use of the transit, pedestrian and bicycle systems; ensuring equity and affordable transportation choices; improving freight reliability; reducing vehicle miles traveled and resulting emissions; and promoting environmental and fiscal stewardship and accountability. Metro and its regional partners will continue to develop a regional data collection and performance monitoring system to better understand the benefits and impacts of actions required by this functional plan relative to the RTP performance objectives. Local plan updates and amendments should rely on Metro data and tools or other locally-developed data and tools, when practical. Through performance evaluation and monitoring the region can be a responsible steward of public funds and be more accountable and transparent about local and regional planning and investment choices.

B. The Regional Transportation Functional Plan (RTFP) implements the Goals and Objectives in section 2.3 of the Regional Transportation Plan (RTP) and the policies of the Regional Transportation Plan (RTP) and its constituent freight, high-capacity transit and transportation system management and operations plans which cities and counties of the region will carry out in their comprehensive plans, transportation system plans (TSPs), other land use regulations and transportation project development. Local implementation of the RTP will result in a more comprehensive approach for implementing the 2040 Growth Concept, help communities achieve their aspirations for growth and support current and future efforts to achieve the principal objectives of the RTP and address climate change.

C. The RTFP is intended to be consistent with federal law that applies to Metro in its role as a metropolitan planning organization, the Oregon Transportation Plan, and Statewide Planning Goal 12 (Transportation) and it's Transportation Planning Rule (TPR). If a TSP is consistent with this RTFP, Metro shall deem it consistent with the RTP.

(Ordinance No. 10-1241B, § 5)

TITLE 1: TRANSPORTATION SYSTEM DESIGN

3.08.110 Street System Design

A. To ensure that new street construction and re-construction projects are designed to improve safety, support adjacent land use and balance the needs of all users, including bicyclists, transit vehicles, motorists, freight delivery vehicles and pedestrians of all ages and abilities, city and county street design regulations shall allow implementation of:

1. Complete street designs as set forth in *Creating Livable Streets: Street Design Guidelines for 2040* (2nd Edition, 2002), or similar resources consistent with regional street design policies;

2. Green street designs as set forth in *Green Streets: Innovative Solutions for Stormwater and Street Crossings* (2002) and *Trees for Green Streets: An Illustrated Guide* (2002) or similar resources consistent with federal regulations for stream protection; and

3. Transit-supportive street designs that facilitate existing and planned transit service pursuant subsection 3.08.120B.

B. City and county local street design regulations shall allow implementation of:

1. Pavement widths of less than 28 feet from curb-face to curb-face;

2. Sidewalk widths that include at least five feet of pedestrian through zones;

3. Landscaped pedestrian buffer strips, or paved furnishing zones of at least five feet, that include street trees;

4. Traffic calming devices, such as speed bumps and cushions, woonerfs and chicanes, to discourage traffic infiltration and excessive speeds;

5. Short and direct right-of-way routes and shared-use paths to connect residences with commercial services, parks, schools, hospitals, institutions, transit corridors, regional trails and other neighborhood activity centers; and

6. Opportunities to extend streets in an incremental fashion, including posted notification on streets to be extended.

C. To improve connectivity of the region’s arterial system and support walking, bicycling and access to transit, each city and county shall incorporate into its TSP, to the extent practicable, a network of major arterial streets at one-mile spacing and minor arterial streets or collector streets at half-mile spacing considering the following:

1. Existing topography;

2. Rail lines;

3. Freeways;

4. Pre-existing development;

5. Leases, easements or covenants in place prior to May 1, 1995; and

6. The requirements of Titles 3 and 13 of the Urban Growth Management Functional Plan (UGMFP).

7. Arterial design concepts in Table 2.6 and Figure 2.11 of the RTP.

8. Best practices and designs as set forth in Green Streets: Innovative Solutions for Stormwater, Street Crossings (2002) and Trees for Green Streets: An Illustrated Guide (2002), Creating Livable Streets: Street Design Guidelines for 2040 (2nd Edition, 2002), and state or locally-adopted plans and best

practices for protecting natural resources and natural areas.

D. To improve local access and circulation, and preserve capacity on the region's arterial system, each city and county shall incorporate into its TSP a conceptual map of new streets for all contiguous areas of vacant and re-developable lots and parcels of five or more acres that are zoned to allow residential or mixed-use development. The map shall identify street connections to adjacent areas to promote a logical, direct and connected system of streets and should demonstrate opportunities to extend and connect new streets to existing streets, provide direct public right-of-way routes and limit closed-end street designs consistent with subsection E.

E. If proposed residential or mixed-use development of five or more acres involves construction of a new street, the city and county regulations shall require the applicant to provide a site plan that:

1. Is consistent with the conceptual new streets map required by subsection D;

2. Provides full street connections with spacing of no more than 530 feet between connections, except if prevented by barriers such as topography, rail lines, freeways, pre-existing development, leases, easements or covenants that existed prior to May 1, 1995, or by requirements of Titles 3 and 13 of the UGMFP;

3. If streets must cross water features protected pursuant to Title 3 UGMFP, provides a crossing every 800 to 1,200 feet unless habitat quality or the length of the crossing prevents a full street connection;

4. If full street connection is prevented, provides bicycle and pedestrian accessways on public easements or rights-of-way spaced such that accessways are not more than 330 feet apart, unless not possible for the reasons set forth in paragraph 3;

5. Provides for bike and pedestrian accessways that cross water features protected pursuant to Title 3 of the UGMFP at an average of 530 feet between accessways unless habitat quality or the length of the crossing prevents a connection;

6. If full street connection over water features protected pursuant to Title 3 of the UGMFP cannot be constructed in centers as defined in Title 6 of the UGMFP or Main Streets shown on the 2040 Growth Concept Map, or if spacing of full street connections exceeds 1,200 feet, provides bike and pedestrian crossings at an average of 530 feet between accessways unless habitat quality or the length of the crossing prevents a connection;

7. Limits cul-de-sac designs or other closed-end street designs to circumstances in which barriers prevent full street extensions and limits the length of such streets to 200 feet and the number of dwellings along the street to no more than 25; and

8. Provides street cross-sections showing dimensions of right-of-way improvements and posted or expected speed limits.

F. For redevelopment of contiguous lots and parcels less than five acres in size that require construction of new streets, cities and counties shall establish their own standards for local street connectivity, consistent with subsection E.

G. To protect the capacity, function and safe operation of existing and planned state highway interchanges or planned improvements to interchanges, cities and counties shall, to the extent feasible, restrict driveway and street access in the vicinity of interchange ramp terminals, consistent with Oregon Highway Plan Access Management Standards, and accommodate local circulation on the local system to improve safety and minimize congestion and conflicts in the interchange area. Public street connections, consistent with regional street design and spacing standards in this section, shall be encouraged and shall supercede this access restriction, though such access may be limited to right-in/right-out or other appropriate configuration in the vicinity of interchange ramp terminals. Multimodal street design features including pedestrian crossings and on-street parking shall be allowed where appropriate.

(Ordinance No. 10-1241B, § 5)

3.08.120 Transit System Design

A. City and county TSPs or other appropriate regulations shall include investments, policies, standards and criteria to provide pedestrian and bicycle connections to all existing transit stops and major transit stops designated in Figure 2.15 of the RTP.

B. City and county TSPs shall include a transit plan, and implementing land use regulations, with the following elements to leverage the region's investment in transit and improve access to the transit system:

1. A transit system map consistent with the transit functional classifications shown in Figure 2.15 of the RTP that shows the locations of major transit stops, transit centers, high capacity transit stations, regional bicycle transit facilities, inter-city bus and rail passenger terminals designated in the RTP, transit-priority treatments such as signals, regional bicycle transit facilities, park-and-ride facilities, and bicycle and pedestrian routes, consistent with sections 3.08.130 and 3.08.140, between essential destinations and transit stops.

2. The following site design standards for new retail, office, multi-family and institutional buildings located near or at major transit stops shown in Figure 2.15 in the RTP:

   a. Provide reasonably direct pedestrian connections between transit stops and building entrances and between building entrances and streets adjoining transit stops;

   b. Provide safe, direct and logical pedestrian crossings at all transit stops where practicable;

   c. At major transit stops, require the following:

      i. Locate buildings within 20 feet of the transit stop, a transit street or an intersecting street, or a pedestrian plaza at the stop or a street intersection;

      ii. Transit passenger landing pads accessible to disabled persons to transit agency standards;

iii. An easement or dedication for a passenger shelter and an underground utility connection to a major transit stop if requested by the public transit provider; and

iv. Lighting to transit agency standards at the major transit stop.

v. Intersection and mid-block traffic management improvements as needed and practicable to enable marked crossings at major transit stops.

C. Providers of public transit service shall consider and document the needs of youth, seniors, people with disabilities and environmental justice populations, including minorities and low-income families, when planning levels of service, transit facilities and hours of operation.

(Ordinance No. 10-1241B, § 5)

3.08.130 Pedestrian System Design

A. City and county TSPs shall include a pedestrian plan, with implementing land use regulations, for an interconnected network of pedestrian routes within and through the city or county. The plan shall include:

1. An inventory of existing facilities that identifies gaps and deficiencies in the pedestrian system;

2. An evaluation of needs for pedestrian access to transit and essential destinations for all mobility levels, including direct, comfortable and safe pedestrian routes.

3. A list of improvements to the pedestrian system that will help the city or county achieve the regional Non-SOV modal targets in Table 3.08-1 and other targets established pursuant to section 3.08.230;

4. Provision for sidewalks along arterials, collectors and most local streets, except that sidewalks are not required along controlled roadways, such as freeways; and

5. Provision for safe crossings of streets and controlled pedestrian crossings on major arterials.

B. As an alternative to implementing section 3.08.120(B)(2), a city or county may establish pedestrian districts in its comprehensive plan or land use regulations with the following elements:

1. A connected street and pedestrian network for the district;

2. An inventory of existing facilities, gaps and deficiencies in the network of pedestrian routes;

3. Interconnection of pedestrian, transit and bicycle systems;

4. Parking management strategies;

5. Access management strategies;

6. Sidewalk and accessway location and width;

7. Landscaped or paved pedestrian buffer strip location and width;

8. Street tree location and spacing;

9. Pedestrian street crossing and intersection design;

10. Street lighting and furniture for pedestrians; and

11. A mix of types and densities of land uses that will support a high level of pedestrian activity.

C. City and county land use regulations shall require new development to provide on-site streets and accessways that offer reasonably direct routes for pedestrian travel.

(Ordinance No. 10-1241B, § 5)

3.08.140 Bicycle System Design

A. City and county TSPs shall include a bicycle plan, with implementing land use regulations, for an interconnected network of bicycle routes within and through the city or county. The plan shall include:

1. An inventory of existing facilities that identifies gaps and deficiencies in the bicycle system;

2. An evaluation of needs for bicycle access to transit and essential destinations, including direct, comfortable and safe bicycle routes and secure bicycle parking, considering *TriMet Bicycle Parking Guidelines*.

3. A list of improvements to the bicycle system that will help the city or county achieve the regional Non-SOV modal targets in Table 3.08-1 and other targets established pursuant to section 3.08.230;

4. Provision for bikeways along arterials, collectors and local streets, and bicycle parking in centers, at major transit stops shown in Figure 2.15 in the RTP, park-and-ride lots and associated with institutional uses; and

5. Provision for safe crossing of streets and controlled bicycle crossings on major arterials.

(Ordinance No. 10-1241B, § 5)

3.08.150 Freight System Design

A. City and county TSPs shall include a freight plan, with implementing land use regulations, for an interconnected system of freight networks within and through the city or county. The plan shall include:

1. An inventory of existing facilities that identifies gaps and deficiencies in the freight system;

2. An evaluation of freight access to freight intermodal facilities, employment and industrial areas and commercial districts; and

3. A list of improvements to the freight system that will help the city or county increase reliability of freight movement, reduce freight delay and achieve the targets established pursuant to section 3.08.230.

(Ordinance No. 10-1241B, § 5)

3.08.160 Transportation System Management and Operations

A. City and county TSPs shall include transportation system management and operations (TSMO) plans to improve the

performance of existing transportation infrastructure within or through the city or county. A TSMO plan shall include:

1. An inventory and evaluation of existing local and regional TSMO infrastructure, strategies and programs that identifies gaps and opportunities to expand infrastructure, strategies and programs;

2. A list of projects and strategies, consistent with the Regional TSMO Plan, based upon consideration of the following functional areas:

    a. Multimodal traffic management investments, such as signal timing, access management, arterial performance monitoring and active traffic management;

    b. Traveler information investments, such as forecasted traffic conditions and carpool matching;

    c. Traffic incident management investments, such as incident response programs; and

    d. Transportation demand management investments, such as individualized marketing programs, rideshare programs and employer transportation programs.

(Ordinance No. 10-1241B, § 5)

TITLE 2: DEVELOPMENT AND UPDATE OF TRANSPORTATION SYSTEM PLANS

3.08.210 Transportation Needs

A. Each city and county shall update its TSP to incorporate regional and state transportation needs identified in the 2035 RTP and its own transportation needs. The determination of local transportation needs shall be based upon:

1. System gaps and deficiencies identified in the inventories and analysis of transportation systems pursuant to Title 1;

2. Identification of facilities that exceed the Deficiency Thresholds and Operating Standards in

Table 3.08-2 or the alternative thresholds and standards established pursuant to section 3.08.230;

3. Consideration and documentation of the needs of youth, seniors, people with disabilities and environmental justice populations within the city or county, including minorities and low-income families.

B. A city or county determination of transportation needs must be consistent with the following elements of the RTP:

1. The population and employment forecast and planning period of the RTP, except that a city or county may use an alternative forecast for the city or county, coordinated with Metro, to account for changes to comprehensive plan or land use regulations adopted after adoption of the RTP;

2. System maps and functional classifications for street design, motor vehicles, transit, bicycles, pedestrians and freight in Chapter 2 of the RTP; and

3. Regional non-SOV modal targets in Table 3.08-1 and the Deficiency Thresholds and Operating Standards in Table 3.08-2.

C. When determining its transportation needs under this section, a city or county shall consider the regional needs identified in the mobility corridor strategies in Chapter 4 of the RTP.

(Ordinance No. 10-1241B, § 5)

3.08.220 Transportation Solutions

A. Each city and county shall consider the following strategies, in the order listed, to meet the transportation needs determined pursuant to section 3.08.210 and performance targets and standards pursuant to section 3.08.230. The city or county shall explain its choice of one or more of the strategies and why other strategies were not chosen:

1. TSMO strategies, including localized TDM, safety, operational and access management improvements;

2. Transit, bicycle and pedestrian system improvements;

3. Traffic-calming designs and devices;

4. Land use strategies in OAR 660-012-0035(2) to help achieve the thresholds and standards in Tables 3.08-1 and 3.08-2 or alternative thresholds and standards established pursuant to section 3.08.230;

5. Connectivity improvements to provide parallel arterials, collectors or local streets that include pedestrian and bicycle facilities, consistent with the connectivity standards in section 3.08.110 and design classifications in Table 2.6 of the RTP, in order to provide alternative routes and encourage walking, biking and access to transit; and

6. Motor vehicle capacity improvements, consistent with the RTP Arterial and Throughway Design and Network Concepts in Table 2.6 and section 2.5.2 of the RTP, only upon a demonstration that other strategies in this subsection are not appropriate or cannot adequately address identified transportation needs.

B. A city or county shall coordinate its consideration of the strategies in subsection A with the owner of the transportation facility affected by the strategy. Facility design is subject to the approval of the facility owner.

C. If analysis under subsection 3.08.210A indicates a new regional or state need that has not been identified in the RTP, the city or county may propose one of the following actions:

1. Propose a project at the time of Metro review of the TSP to be incorporated into the RTP during the next RTP update; or

2. Propose an amendment to the RTP for needs and projects if the amendment is necessary prior to the next RTP update.

(Ordinance No. 10-1241B, § 5)

3.08.230 Performance Targets and Standards

A. Each city and county shall demonstrate that solutions adopted pursuant to section 3.08.220 will achieve progress toward the targets and standards in Tables 3.08-1, and 3.08-2 and measures in subsection D, or toward alternative targets and standards adopted by the city or county pursuant to subsections B and, C. The city or county shall include the regional targets and standards or its alternatives in its TSP.

B. A city or county may adopt alternative targets or standards in place of the regional targets and standards prescribed in subsection A upon a demonstration that the alternative targets or standards:

1. Are no lower than the modal targets in Table 3.08-1 and no lower than the ratios in Table 3.08-2;

2. Will not result in a need for motor vehicle capacity improvements that go beyond the planned arterial and throughway network defined in Figure 2.12 of the RTP and that are not recommended in, or are inconsistent with, the RTP; and

3. Will not increase SOV travel to a degree inconsistent with the non-SOV modal targets in Table 3.08-1.

C. If the city or county adopts mobility standards for state highways different from those in Table 3.08-2, it shall demonstrate that the standards have been approved by the Oregon Transportation Commission.

D. Each city and county shall also include performance measures for safety, vehicle miles traveled per capita, freight reliability, congestion, and walking, bicycling and transit mode shares to evaluate and monitor performance of the TSP.

E. To demonstrate progress toward achievement of performance targets in Tables 3.08-1 and 3.08-2 and to improve performance of state highways within its jurisdiction as much as feasible and avoid their further degradation, the city or county shall adopt the following:

1. Parking minimum and maximum ratios in Centers and Station Communities consistent with subsection 3.08.410A;

2. Designs for street, transit, bicycle, freight and pedestrian systems consistent with Title 1; and

3. TSMO projects and strategies consistent with section 3.08.160; and

4. Land use actions pursuant to OAR 660-012-0035(2).

(Ordinance No. 10-1241B, § 5)

3.08.310 Defining Projects in Transportation System Plans

A. Each city or county developing or amending a TSP shall specify the general locations and facility parameters, such as minimum and maximum ROW dimensions and the number and width of traffic lanes, of planned regional transportation facilities and improvements identified on the appropriate RTP map. The locations shall be within the general location depicted in the appropriate RTP map. Except as otherwise provided in the TSP, the general location is as follows:

1. For new facilities, a corridor within 200 feet of the location depicted on the appropriate RTP map;

2. For interchanges, the general location of the crossing roadways, without specifying the general location of connecting ramps;

3. For existing facilities planned for improvements, a corridor within 50 feet of the existing right-of-way; and

4. For realignments of existing facilities, a corridor within 200 feet of the segment to be realigned as measured from the existing right-of-way depicted on the appropriate RTP map.

B. A city or county may refine or revise the general location of a planned regional facility as it prepares or revises its TSP. Such revisions may be appropriate to reduce the impacts of the facility or to comply with comprehensive plan or statewide planning goals. If, in developing or amending its TSP, a city or county determines that the general location of a planned regional facility or improvement is inconsistent with its comprehensive plan or a statewide planning goal requirement, it shall:

1. Propose a revision to the general location of the planned facility or improvement to achieve consistency and, if the revised location lies outside the general location depicted in the appropriate RTP map, seek an amendment to the RTP; or

2. Propose a revision to its comprehensive plan to authorize the planned facility or improvement at the revised location.

(Ordinance No. 10-1241B, § 5)

TITLE 4: REGIONAL PARKING MANAGEMENT

3.08.410 Parking Management

A. Cities and county parking regulations shall establish parking ratios, consistent with the following:

   1. No minimum ratios higher than those shown on Table 3.08-3.

   2. No maximums ratios higher than those shown on Table 3.08-3 and illustrated in the Parking Maximum Map. If 20-minute peak hour transit service has become available to an area within a one-quarter mile walking distance for bus transit or one-half mile walking distance from a high capacity transit station, that area shall be added to Zone A. If 20-minute peak hour transit service is no longer available to an area within a one-quarter mile walking distance for bus transit or one-half mile walking distance from a high capacity transit station, that area shall be removed from Zone A. Cities and counties should designate Zone A parking ratios in areas with good pedestrian access to commercial or employment areas (within one-third mile walk) from adjacent residential areas.

B. Cities and counties may establish a process for variances from minimum and maximum parking ratios that includes criteria for a variance.

C. Cities and counties shall require that free surface parking be consistent with the regional parking maximums for Zones A and B in Table 3.08-3. Following an adopted exemption process and criteria, cities and counties may exempt parking structures; fleet parking; vehicle parking for sale, lease, or rent; employee car pool parking; dedicated valet parking; user-paid parking; market rate parking; and other high-efficiency parking management alternatives from maximum parking standards. Reductions associated with redevelopment may be done in phases. Where mixed-use development is proposed, cities and counties shall provide for blended parking rates. Cities and counties may count adjacent on-street parking spaces, nearby public parking and shared parking toward required parking minimum standards.

D. Cities and counties may use categories or standards other than those in Table 3.08-3 upon demonstration that the

effect will be substantially the same as the application of the ratios in the table.

E. Cities and counties shall provide for the designation of residential parking districts in local comprehensive plans or implementing ordinances.

F. Cities and counties shall require that parking lots more than three acres in size provide street-like features, including curbs, sidewalks and street trees or planting strips. Major driveways in new residential and mixed-use areas shall meet the connectivity standards for full street connections in section 3.08.110, and should line up with surrounding streets except where prevented by topography, rail lines, freeways, pre-existing development or leases, easements or covenants that existed prior to May 1, 1995, or the requirements of Titles 3 and 13 of the UGMFP.

G. To support local freight delivery activities, cities and counties shall require on-street freight loading and unloading areas at appropriate locations in centers.

H. To encourage the use of bicycles and ensure adequate bicycle parking for different land uses, cities and counties shall establish short-term (stays of less than four hours) and long-term (stays of more than four hours and all-day/monthly) bicycle parking minimums for:

1. New multi-family residential developments of four units or more;

2. New retail, office and institutional developments;

3. Transit centers, high capacity transit stations, inter-city bus and rail passenger terminals; and

4. Bicycle facilities at transit stops and park-and-ride lots.

I. Cities and counties shall adopt parking policies, management plans and regulations for Centers and Station Communities. The policies, plans and regulations shall be consistent with subsection A through H. Plans may be adopted in TSPs or other adopted policy documents and may focus on sub-areas of Centers. Plans shall include an inventory of parking supply and usage, an evaluation of bicycle parking needs with consideration of *TriMet Bicycle Parking Guidelines*. Policies shall be adopted in the TSP.

Policies, plans and regulations must consider and may include the following range of strategies:

1. By-right exemptions from minimum parking requirements;

2. Parking districts;

3. Shared parking;

4. Structured parking;

5. Bicycle parking;

6. Timed parking;

7. Differentiation between employee parking and parking for customers, visitors and patients;

8. Real-time parking information;

9. Priced parking;

10. Parking enforcement.

(Ordinance No. 10-1241B, § 5)

TITLE 5: AMENDMENT OF COMPREHENSIVE PLANS

3.08.510 Amendments of City and County Comprehensive and Transportation System Plans

A. When a city or county proposes to amend its comprehensive plan or its components, it shall consider the strategies in subsection 3.08.220A as part of the analysis required by OAR 660-012-0060.

B. If a city or county adopts the actions set forth in subsection 3.08.230E and Title 6 of the UGMFP, it shall be eligible for the automatic reduction provided in Title 6below the vehicular trip generation rates reported by the Institute of Transportation Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Main Street, Corridor or Station Community.

C. If a city or county proposes a transportation project that is not included in the RTP and will result in a significant increase in SOV capacity or exceeds the

planned function or capacity of a facility designated in the RTP, it shall demonstrate consistency with the following in its project analysis:

1. The strategies set forth in subsection 3.08.220A (1) through (5);

2. Complete street designs adopted pursuant to subsection 3.08.110A and as set forth in *Creating Livable Streets: Street Design Guidelines for 2040* (2nd Edition, 2002) or similar resources consistent with regional street design policies; and

3. Green street designs adopted pursuant to subsection 3.08.110A and as set forth in *Green Streets: Innovative Solutions for Stormwater and Street Crossings* (2002) and *Trees for Green Streets: An Illustrated Guide* (2002) or similar resources consistent with federal regulations for stream protection.

D. If the city or county decides not to build a project identified in the RTP, it shall identify alternative projects or strategies to address the identified transportation need and inform Metro so that Metro can amend the RTP.

E. This section does not apply to city or county transportation projects that are financed locally and would be undertaken on local facilities.

(Ordinance No. 10-1241B, § 5)

TITLE 6: COMPLIANCE PROCEDURES

3.08.610 Metro Review of Amendments to Transportation System Plans

A. Cities and counties shall update or amend their TSPs to comply with the RTFP, or an amendment to it, within two years after acknowledgement of the RTFP, or an amendment to it or by a later date specified in the ordinance that amends the RTFP. The COO shall notify cities and counties of the dates by which their TSPs must comply.

B. Cities and counties that update or amend their TSPs after acknowledgment of the RTFP or an amendment to it, but before two years following its acknowledgment, shall make the amendments in compliance with the RTFP or the

amendment. The COO shall notify cities and counties of the date of acknowledgment of the RTFP or an amendment to it.

C. One year following acknowledgment of the RTFP or an amendment to it, cities and counties whose TSPs do not yet comply with the RTFP or the amendment shall make land use decisions consistent with the RTFP or the amendment. The COO, at least 120 days before the specified date, shall notify cities and counties of the date upon which RTFP requirements become applicable to land use decisions. The notice shall specify which requirements become applicable to land use decisions in each city and county.

D. An amendment to a city or county TSP shall be deemed to comply with the RTFP 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 with the RTFP, the RTFP shall no longer apply directly to city or county land use decisions.

E. An amendment to a city or county TSP shall be deemed to comply with the RTFP as provided in subsection D only if the city or county provided notice to the COO as required by subsection F.

F. At least 45 days prior to the first public hearing on a proposed amendment to a TSP, the city or county shall submit the proposed amendment to the COO. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the RTFP. Within four weeks after receipt of the notice, the COO shall submit to the city or county a written analysis of compliance of the proposed amendment with the RTFP, including recommendations, if any, that would bring the amendment into compliance with the RTFP. The COO shall send a copy of its analysis to those persons who have requested a copy.

G. If the COO concludes that the proposed amendment does not comply with RTFP, the COO shall advise the city or county that it may:

1. Revise the proposed amendment as recommended in the COO's analysis;

2. Seek an extension of time, pursuant to section 3.08.620, to bring the proposed amendment into compliance;

3. Seek an exception to the requirement, pursuant to section 3.08.630; or

4. Seek review of the noncompliance by the Metro Council.

H. A city or county may postpone further consideration of the proposed amendment and seek review of the COO's analysis by the Metro Council. If a city or county seeks such review, the Council shall schedule the review at the earliest convenient time. At the conclusion of the review, the Council shall decide whether it agrees or disagrees with the COO's analysis and provide a written explanation as soon as practicable.

I. A city or county that adopts an amendment to its TSP shall send a printed or electronic copy of the ordinance making the amendment to the COO within 14 days after its adoption.

(Ordinance No. 10-1241B, § 5)

3.08.620 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with the RTFP by filing an application on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county, the Oregon Department of Transportation 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 if the city or county is making progress toward compliance or there is good cause for failure to meet the compliance deadline. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time. The COO shall 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 an extension 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 RTFP requirement. A term or condition must relate to the requirement of the RTFP for which the Council grants the extension. The COO shall incorporate the terms and conditions into the order on the extension.

D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order with its conclusion and analysis and send a copy to the city or county and any person who participated in the proceeding. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance No. 10-1241B, § 5; and Ordinance 12-1278)

3.08.630 Exception from Compliance

A. A city or county may seek an exception from compliance with a requirement of the RTFP by filing an application on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county, the Oregon Department of Transportation 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.

The COO may grant an exception if:

1. It is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;

2. This 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 has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

B. Within 30 days after the filing of a complete application for an exception, the COO shall issue an order granting or denying the exception.

C. The COO may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the policies of the RTP. A term or condition must relate to the requirement of the RTFP to which the Council grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

D. The city or county applicant or a person who filed a written comment on the 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 Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order with its conclusion and analysis and send a copy to the city or county, the DLCD and those persons who have requested a copy of the order. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10) (a) (A).

(Ordinance No. 12-1241B § 5; and Ordinance No. 12-1278)

3.08.640 Exemptions

A. A city or county may seek an exemption from the requirements of the RTFP. Upon receipt of a request, the COO shall notify the city or county, the Department of Land Conservation and Development, the Oregon Department of Transportation and those persons who request notification of applications for exemptions. Any person may file a written comment in support of or opposition to the exemption.

B. The COO may grant an exemption from some or all requirements if:

1. The city or county's transportation system is generally adequate to meet transportation needs;
2. Little population or employment growth is expected over the period of the exemption;
3. The exemption would not make it more difficult to accommodate regional or state transportation needs; and
4. The exemption would not make it more difficult to achieve the performance objectives set forth in section 3.08.010A.

C. Within 30 days after the filing the request for an exemption, the COO shall issue an order granting or denying the exemption.

D. The COO shall prescribe the duration of the exemption and may establish other terms and conditions for the exemption so long as the terms and conditions relate to the requirement of the RTFP to which the Council grants the exemption. The COO shall incorporate the terms and conditions into the order on the exemption.

E. The city or county applicant or any person who filed written comment on the exemption may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order with its conclusion and analysis and send a copy to the city or county and any person who participated in the proceeding. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10) (a) (A).

(Ordinance No. 12-1278)

TITLE 7: DEFINITIONS

3.08.710 Definitions

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

A. "Accessibility" means the ease of access and the amount of time required to reach a given location or service by any mode of travel.

B. "Accessway" means right-of-way or easement designed for public access by bicycles and pedestrians, and may include emergency vehicle passage.

C. "At a major transit stop" means a parcel or ownership that is adjacent to or includes a major transit stop, generally including portions of such parcels or ownerships that are within 200 feet of a major transit stop.

D. "Bikeway" means separated bike paths, striped bike lanes, or wide outside lanes that accommodate bicycles and motor vehicles.

E. "Boulevard design" means a design concept that emphasizes pedestrian travel, bicycling and the use of public transportation, and accommodates motor vehicle travel.

F. "Capacity expansion" means constructed or operational improvements to the regional motor vehicle system that increase the capacity of the system.

G. “Chicane” means a movable or permanent barrier used to create extra turns in a roadway to reduce motor vehicle speeds or to prevent cars from driving across a pedestrian or bicycle accessway.

H. "Connectivity" means the degree to which the local and regional street, pedestrian, bicycle, transit and freight systems in a given area are interconnected.

I. “Complete Streets” means streets that are designed to serve all modes of travel, including bicycles, freight delivery vehicles, transit vehicles and pedestrians of all ages and abilities.

J. “COO” means Metro’s Chief Operating Officer or the COO’s designee.

K. "DLCD” means the Oregon state agency under the direction of the Land Conservation and Development Commission.

L. “Deficiency” means a performance, design or operational constraint that limits travel by a given mode. Examples of deficiencies may include unsafe designs, bicycle and pedestrian connections that contain obstacles (e.g., missing ADA-compliant curb ramps, distances greater than 330 feet between pedestrian crossings), transit overcrowding or inadequate frequency; and throughways with less than six through lanes of capacity; arterials with less than four through lanes that do not meet the standards in Table 3.08-2.

M. "Design type" means the conceptual areas depicted on the Metro 2040 Growth Concept Map and described in the RFP including Central City, Regional Center, Town Center, Station Community, Corridor, Main Street, Inner Neighborhood, Outer Neighborhood, Regionally Significant Industrial Area, Industrial Area and Employment Area.

N. “Essential destinations” includes such places as hospitals, medical centers, grocery stores, schools, and

social service centers with more than 200 monthly LIFT pick-ups.

O. "Full street connection" means right-of-way designed for public access by motor vehicles, pedestrians and bicycles.

P. “Gap” means a missing link or barrier in the “typical” urban transportation system for any mode that functionally prohibits travel where a connection might be expected to occur in accordance with the system concepts and networks in Chapter 2 of the RTP. There is a gap when a connection does not exist. But a gap also exists if a physical barrier, such as a throughway, natural feature, weight limits on a bridge or existing development, interrupts a system connection.

Q. "Growth Concept Map" means the conceptual map depicting the 2040 Growth Concept design types described in the RFP.

R. “High capacity transit” means the ability to bypass traffic and avoid delay by operating in exclusive or semi-exclusive rights of way, faster overall travel speeds due to wide station spacing, frequent service, transit priority street and signal treatments, and premium station and passenger amenities. Speed and schedule reliability are preserved using transit signal priority at at-grade crossings and/or intersections. High levels of passenger infrastructure are provided at transit stations and station communities, including real-time schedule information, ticket machines, special lighting, benches, shelters, bicycle parking, and commercial services. The transit modes most commonly associated with high capacity transit include:

- Light rail transit, light rail trains operating in exclusive or semi-exclusive right-of-way[1]

- Bus rapid transit, regular or advanced bus vehicles operating primarily in exclusive or semi-exclusive right-of-way

- Rapid streetcar, streetcar trains operating primarily in exclusive or semi-exclusive right-of-way

[1] Exclusive right-of-way, as defined by Transportation Research Board TCRP report 17, includes fully grade-separated right-of-way. Semi-exclusive right-of-way includes separate and shared rights of way as well light rail and pedestrian malls adjacent to a parallel roadway. Nonexclusive right-of-way includes operations in mixed traffic, transit mall and a light rail/pedestrian mall.

- Commuter rail, heavy rail passenger trains operating on exclusive, semi-exclusive or nonexclusive (with freight) railroad tracks

S. "Improved pedestrian crossing" means a marked pedestrian crossing and may include signage, signalization, curb extensions and a pedestrian refuge such as a landscaped median.

T. "Institutional uses" means colleges and universities, hospitals and major government offices.

U. "Landscape strip" means the portion of public right-of-way located between the sidewalk and curb.

V. "Land use decision" shall have the meaning of that term set forth in ORS 197.015(10).

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

X. "Level-of-service (LOS)" means the ratio of the volume of motor vehicle demand to the capacity of the motor vehicle system during a specific increment of time.

Y. “Local trips” means trips that are five miles or shorter in length.

Z. "Low-income families" means a household who earned between 0 and 1.99 times the federal Poverty level as defined in the most recently available U.S. Census.

AA. "Low-income populations" means any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed or transient persons (such as migrant workers or Native Americans) who would be similarly affected by a TSP.

BB. “Major Bus Stops” include most Frequent Service bus stops, most transfer locations between bus lines (especially when at least one of the bus lines is a frequent service line), stops at major ridership generators (e.g., schools, hospitals, concentrations of shopping, or high density

employment or employment), and other high ridership bus stops. These stops may include shelters, lighting, seating, bicycle parking, or other passenger amenities and are intended to be highly accessible to adjacent buildings while providing for quick and efficient bus service. Major bus stop locations are designated in Figure 2.15 of the RTP.

CC. “Major driveway” means a driveway that:

1. Intersects with a public street that is controlled, or is to be controlled in the planning period, by a traffic signal;
2. Intersects with an existing or planned arterial or collector street; or
3. Would be an extension of an existing or planned local street, or of another major driveway.

DD. “Major transit stop” means transit centers, high capacity transit stations, major bus stops, inter-city bus passenger terminals, inter-city rail passenger terminals and bike-transit facility as defined in Figure 2.15 of the Regional Transportation Plan.

EE. "Median" means the center portion of public right-of-way, located between opposing directions of motor vehicle travel lanes. A median is usually raised and may be landscaped, and usually incorporates left turn lanes for motor vehicles at intersections and major access points.

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

GG. "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.

HH. "Minority" means a person who is:

1. Black (having origins in any of the black racial groups of Africa);

2. Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);

3. Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands);

4. American Indian and Alaska Native (having origins in any of the original peoples of North American and who maintain cultural identification through tribal affiliation or community recognition); or

5. Native Hawaiian or Other Pacifica Islander (having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands).

II. "Minority population" means any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed or transient persons (such as migrant workers or Native Americans) who would be similarly affected by a TSP.

JJ. "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.

KK. "Mobility" means the speed at which a given mode of travel operates in a specific location.

LL. "Mode-split target" means the individual percentage of public transportation, pedestrian, bicycle and shared-ride trips expressed as a share of total person-trips.

MM. "Motor vehicle" means automobiles, vans, public and private buses, trucks and semi-trucks, motorcycles and mopeds.

NN. "Motor vehicle level-of-service" means a measurement of congestion as a share of designed motor vehicle capacity of a road.

OO. "Multi-modal" means transportation facilities or programs designed to serve many or all methods of travel, including

all forms of motor vehicles, public transportation, bicycles and walking.

PP. "Narrow street design" means streets with less than 46 feet of total right-of-way and no more than 28 feet of pavement width between curbs.

QQ. “Near a major transit stop” means a parcel or ownership that is within 300 feet of a major transit stop.

RR. "Non-SOV modal target" means a target for the percentage of total trips made in a defined area by means other than a private passenger vehicles carrying one occupant.

SS. "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.

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

UU. “Principal arterial” means limited-access roads that serve longer-distance motor vehicle and freight trips and provide interstate, intrastate and cross-regional travel. See definition of Throughway.

VV. "Refinement plan" means an amendment to a transportation system plan which determines at a systems level the function, mode or general location of a transportation facility, service or improvement, deferred during system planning because detailed information needed to make the determination could not be reasonably obtained at that time.

WW. "Regional vehicle trips" are trips that are greater than five miles in length.

XX. "Residential Parking District" is a designation intended to protect residential areas from spillover parking generated by adjacent commercial, employment or mixed use areas, or other uses that generate a high demand for parking.

YY. "RFP" means Metro’s Regional Framework Plan adopted pursuant to ORS chapter 268.

ZZ. "Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

AAA. "RTFP" means this Regional Transportation Functional Plan.

BBB. "Shared-ride" means private passenger vehicles carrying more than one occupant.

CCC. "Significant increase in Single Occupancy Vehicle (SOV) capacity" means a transportation project that increases the motor vehicle capacity of a roadway and warrants a new air quality conformity determination. This includes new facilities (e.g., a new arterial or throughway, a new interchange or interchange ramps, a new access road or a new bridge) or the addition of new, general-purpose or auxiliary lanes to an existing facility totaling one-quarter-lane mile or more in length. General-purpose lanes are defined as through travel lanes, two-way left turn lanes or dual turn lanes. Not included in this definition is any project that adds less than one-quarter lane-mile of general-purpose lane or auxiliary lane capacity. Also not included in this definition are realignments that replace rather than supplement existing roadways for through traffic, channelized turn lanes, climbing lanes, widening without adding new travel lanes, and facilities that are primarily for use by modes other than SOVs (such as bus lanes, HOV lanes, truck lanes, and bicycle and pedestrian facilities). Significant increases in SOV capacity should be assessed for individual facilities rather than for the planning area.

DDD. "SOV" means a private motorized passenger vehicle carrying one occupant (single-occupancy vehicle).

EEE. "Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.

FFF. "Throughway" means limited-access roads that serve longer-distance motor vehicle and freight trips and provide interstate, intrastate and cross-regional travel. See definition for principal arterial.

GGG. "TPR" means the administrative rule entitles Transportation Planning Rule adopted by the Land

Conservation and Development to implement statewide planning Goal 12, Transportation.

HHH. "Traffic calming" means street design or operational features intended to maintain low motor vehicle travel speed to enhance safety for pedestrians, other non-motorized modes and adjacent land uses.

III. "Transportation system management and operations" (TSMO) means programs and strategies that will allow the region to more effectively and efficiently manage existing and new multi-modal transportation facilities and services to preserve capacity and improve safety, security and reliability. TSMO has two components: (1) transportation system management, which focuses on making facilities better serve users by improving efficiency, safety and capacity; and (2) transportation demand management, which seeks to modify travel behavior in order to make more efficient use of facilities and services and enable users to take advantage of everything the transportation system offers.

JJJ. "TriMet" means the regional service district that provides public mass transit to the region.

KKK. "TSP" means a transportation system plan adopted by a city or county.

LLL. "UGB" means an urban growth boundary adopted pursuant to ORS 268.390(3).

MMM. "Update" means TSP amendments that change the planning horizon and apply broadly to a city or county and typically entails changes that need to be considered in the context of the entire TSP, or a substantial geographic area.

NNN. "Woonerf" means a street or group of streets on which pedestrians and bicyclists have legal priority over motor vehicles.

(Ordinance No. 10-1241B, § 5)

Table 3.08-1
Regional Non-SOV Modal Targets
(Share of average daily weekday trips for the year 2035)

2040 Design Type	Non-Drive Alone Modal Target
Portland central city	60-70%
Regional centers Town centers Main streets Station communities Corridors Passenger intermodal facilities	45-55%
Industrial areas Freight intermodal facilities Employment areas Inner neighborhoods Outer neighborhoods	40-45%

(Ordinance No. 10-1241B, § 5)

Table 3.08-2

Interim Regional Mobility Policy

Deficiency Thresholds and Operating Standards

Location	Standard	Standard	
	Mid-Day One-Hour Peak [A]	**PM 2-Hour Peak** [A]	
		1st Hour	2nd Hour
Central City Regional Centers Town Centers Main Streets Station Communities	.99	1.1	.99
Corridors Industrial Areas Intermodal Facilities Employment Areas Inner Neighborhoods Outer Neighborhoods	.90	.99	.99
I-84 *(from I-5 to I-205)*	.99	1.1	.99
I-5 North *(from Marquam Bridge to Interstate Bridge)*	.99	1.1	.99
OR 99E *(from Lincoln Street to OR 224 interchange)*	.99	1.1	.99
US 26 *(from I-405 to Sylvan interchange)*	.99	1.1	.99
I-405 [B] *(I-5 South to I-5 North)*	.99	1.1	.99
Other Principal Arterial Routes I-205 [B] I-84 (east of I-205) I-5 (Marquam Bridge to Wilsonville) [B] OR 217 US 26 (west of Sylvan) US 30 OR 8 (Murray Boulevard to Brookwood Avenue) [B] OR 212 OR 224 OR 47 OR 213	.90	.99	.99

A. The demand-to-capacity ratios in the table are for the highest two consecutive hours of weekday traffic volumes. The mid-day peak hour as the highest 60-minute period between the hours of 9 a.m. and 3 p.m. The 2nd hour is defined as the single 60-minute period either before or after the peak 60-minute period, whichever is highest.

B. A corridor refinement plan is required in Chapter 6 of the RTP, and will include a recommended mobility policy for each corridor.

(Ordinance No. 10-1241B, § 5)

Table 3.08-3 - Regional Parking Ratios (Parking ratios are based on spaces per 1,000 sq. ft of gross leasable area unless otherwise stated)			
Land Use	Minimum Parking Requirements (See Central City Transportation Management Plan for downtown Portland stds)	Maximum Permitted Parking - Zone A:	Maximum Permitted Parking Ratios - Zone B:
	Requirements May Not Exceed	Transit and Pedestrian Accessible Areas[1]	Rest of Region
General Office (includes Office Park, "Flex-Space", Government Office & misc. Services) (gsf)	2.7	3.4	4.1
Light Industrial Industrial Park Manufacturing (gsf)	1.6	None	None
Warehouse (gross square feet; parking ratios apply to warehouses 150,000 gsf or greater)	0.3	0.4	0.5
Schools: College/ University & High School (spaces/# of students and staff)	0.2	0.3	0.3
Tennis Racquetball Court	1.0	1.3	1.5
Sports Club/Recreation Facilities	4.3	5.4	6.5
Retail/Commercial, including shopping centers	4.1	5.1	6.2
Bank with Drive-In	4.3	5.4	6.5
Movie Theater (spaces/number of seats)	0.3	0.4	0.5
Fast Food with Drive Thru	9.9	12.4	14.9
Other Restaurants	15.3	19.1	23
Place of Worship (spaces/seats)	0.5	0.6	0.8
Medical/Dental Clinic	3.9	4.9	5.9
Residential Uses			
Hotel/Motel	1	none	none
Single Family Detached	1	none	none
Residential unit, less than 500 square feet per unit, one bedroom	1	none	none
Multi-family, townhouse, one bedroom	1.25	none	none
Multi-family, townhouse, two bedroom	1.5	none	none
Multi-family, townhouse, three bedroom	1.75	none	none

[1] Ratios for uses not included in this table would be determined by cities and counties. In the event that a local government proposes a different measure, for example, spaces per seating area for a restaurant instead of gross leasable area, Metro may grant approval upon a demonstration by the local government that the parking space requirement is substantially similar to the regional standard.

(Ordinance No. 10-1241B, § 5)

CHAPTER 3.09

LOCAL GOVERNMENT BOUNDARY CHANGES

SECTIONS	TITLE
3.09.010	Purpose and Applicability
3.09.020	Definitions
3.09.030	Notice Requirements
3.09.040	Requirements for Petitions
3.09.045	Expedited Decisions
3.09.050	Hearing and Decision Requirements for Decisions Other Than Expedited Decisions
3.09.060	Process to Make Boundary Change Effective
3.09.070	Changes to Metro's Boundary
3.09.080	Incorporation of a City that Includes Territory Within Metro's Boundary
3.09.090	Extension of Services Outside UGB

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 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's Urban Growth Boundary (UGB).

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 07-1165A, Sec. 1; Ordinance No. 10-1244B, Sec. 14; and Ordinance No. 12-1276, Sec. 1.)

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

A. “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 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.

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

C. "Affected territory" means territory described in a petition.

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

E. "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.

F. "District" means a:

1. Domestic water supply district organized under ORS chapter 264;

2. Park and recreation district organized under ORS chapter 266;

3. Metropolitan service district organized under ORS chapter 268;

4. Sanitary district organized under ORS 450.005 to 450.245;

5. Sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989; or

6. District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

G. "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.

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

I. "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.

J. "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.

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

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

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

N. "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 02-972A, Sec. l; Ordinance No. 07-1165A, Sec. 1; Ordinance No. 10-1244B, Sec. 14; and Ordinance No. 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 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall 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 be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.

C. The notice required by subsection (B) shall:

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 be reissued in the form required by subsection (B) of this section at least five days prior to the continued date of decision.

E. A reviewing entity's final decision shall 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 include payment to Metro of the filing fee required pursuant to section 3.09.060.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 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.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 02-972A, Sec. l; Ordinance No. 07-1165A, Sec. 1.)

3.09.045 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 percent of property owners and at least

fifty 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 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 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:

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

2. 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.

(Ordinance No. 99-803, Sec. 1. Amended by Ordinance No. 07-1165A, Sec. 1; Ordinance 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 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 make available to the public a report that addresses the criteria identified in subsection (D) 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 apply the criteria and consider the factors set forth in subsections (D) and (E) of section 3.09.045.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 02-964, Sec. 4; and Ordinance No. 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 follow the process set forth below:

1. The reviewing entity shall 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 send its final decision, with supporting materials and the DOR approval, to Metro;

4. Metro shall 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;

6. Metro shall post the final decision, supporting materials, the DOR determination and the SOS filing letter at the Metro 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 completes Step 4 in subsection A within one working day of its receipt of the final decision and DOR determination from the entity.

C. The COO shall 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 to cover Metro's costs for the services set forth in this section. The COO shall file the fee schedule with the Clerk of the Council and send it to all cities, counties and special districts in the Metro region.

D. Metro shall create and keep current maps of district boundaries and the boundaries of all cities and counties within Metro. The maps and any additional information requested that relates to boundary changes shall be made available to the public at a price that reimburses Metro for its costs.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 02-972A, Sec. l; amended and renumbered by Ordinance No. 07-1165A, Sec. 1. Amended by Ordinance No. 10-1244B, Sec. 14 and Ordinance No. 12-1276, Sec. 1.)

3.09.070 Changes to Metro's Boundary

A. Changes to 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 meet the requirements of section 3.09.040 above. The COO shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

B. Notice of proposed changes to the Metro boundary shall be given as required pursuant to section 3.09.030.

C. Hearings shall 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. The Metro Council's final decision on a boundary change shall 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

3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS 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 section.

(Ordinance No. 99-818A, Sec. 5. Amended by Ordinance No. 02-972A, Sec. 1; Ordinance No. 04-1033A, Sec. 1. Amended and renumbered by Ordinance No. 07-1165A, Sec. 1. Amended by Ordinance No. 10-1244B, Sec. 14.)

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

A. A petition to incorporate a city that includes territory within Metro's boundary shall 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, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.

B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.

C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(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.

(Ordinance No. 04-1033A, Sec. 1. Amended and renumbered by Ordinance No. 07-1165A, Sec. 1. Amended by Ordinance No. 10-1244B, Sec. 14.)

3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.

(Ordinance 10-1244B, Sec. 14.)

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CHAPTER 4.01

OREGON ZOO REGULATIONS

Section	Title
4.01.010	Purpose
4.01.020	Definitions
4.01.030	Operating Authority
4.01.040	Hours of Operation
4.01.050	Admission Fees and Policies
4.01.060	Rules of Conduct for Public Within Zoo Premises
4.01.070	Parking Regulations
4.01.080	Rules of Conduct for Members of Public in Zoo Shuttle Parking Lot
4.01.090	Zoo Railroad
4.01.100	Penalties
	Repealed
4.01.110	Allocation of Zoo Tax Base (Repealed Ord. 10-1230, Sec. 2)

4.01.010 Purpose

The purpose of this chapter is to provide for the operation of the Zoo and to provide for regulations governing the use of the Zoo and Zoo Shuttle areas by members of the public in order to provide protection of Zoo animals, plants, and property, and to protect the safety and enjoyment of persons visiting the Zoo.

(Ordinance 92-412A, Sec. 2. Ordinance 13-1320, Sec. 1.)

4.01.020 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Director" or "Zoo Director" means the Director of the Zoo, and also includes such subordinate employees of the Zoo or other Metro employees to the extent the Zoo Director or Chief Operating Officer has delegated specific duties in writing.

(b) "Premises" means the property, buildings, and grounds within the perimeter fence surrounding the Zoo, the admission and exit gates, the entry plaza, all Zoo buildings including but not limited to the administrative, commissary, haybarn, and shop buildings, the employee parking lot, the Zoo vehicular storage area, including the Zoo Railroad right-of-way from the Zoo to and including the

Metro Washington Park Station, and any portions of the landscaping and sidewalk between the Zoo perimeter fence and Knights Boulevard or the Washington Park parking lot.

(c) "Public" means any person other than a Zoo employee.

(d) "Shuttle Parking Lot" means any facility located outside the Zoo and the Washington Park parking Lot and designated by the Zoo for overflow parking.

(e) "Special event" means any event or occasion held on the Premises other than during normal operating hours as specifically authorized by the Zoo Director and Chief Operating Officer.

(f) "Zoo" means the Oregon Zoo and includes the Premises.

(g) "Zoo Employee" means any paid employees of the Zoo, any other paid employees of Metro performing tasks or functions at the Zoo at the request or direction of either the Zoo Director, the Metro Council, or the Chief Operating Officer, volunteers performing functions and duties assigned or authorized by the Zoo Director, and any contractors or agents of the Zoo carrying out their duties or obligations to the Zoo.

(h) "Zoo Railroad" means the equipment, rails, and right-of-way extending from within the Zoo Premises through the City of Portland park adjacent to the Zoo to a location near the Rose Test Gardens, also known as the Washington Park and Zoo Railway.

(Ordinance 92-412A, Sec. 2. Ordinance 98-726, Sec. 5; Ordinance 02-973, Sec. 1; Ordinance 04-1059, Sec. 1; Ordinance 13-1320, Sec. 1.)

4.01.030 Operating Authority

Operation of the Zoo and management of the Zoo Premises shall be under the general supervision of the Zoo Director except as may be specifically provided to the contrary by the Chief Operating Officer. All Zoo employees shall be directed and controlled by the Zoo Director and Chief Operating Officer subject to the personnel rules and applicable collective bargaining agreements of Metro.

(Ordinance 92-412A, Sec. 2. Ordinance 02-973, Sec. 1; Ordinance 13-1320, Sec. 1.)

4.01.040 Hours of Operation

Hours of operations of the Zoo, including all times the Zoo is open to the public or for special events, shall be established by the Zoo Director and approved by the Chief Operating Officer. In cases of inclement weather, or in any case of emergency, the

Zoo may be closed in order to protect the safety of members of the public, Zoo employees or animals, and other Zoo property.

(Ordinance 92-412A, Sec. 2. Amended by Ordinance 02-973, Sec. 1.)

4.01.050 Admission Fees and Policies

(a) Regular Fee Schedule. The schedule of regular paid admission fees shall be set and adjusted by the Chief Operating Officer, or designee, based on consideration of the following criteria:

(1) Increases/decreases in the Consumer Price Index since the last admission fee adjustment;

(2) Comparisons to Zoos of similar attendance, size, quality, and service area;

(3) Pricing survey data;

(4) Revenue and expense projections.

(b) In the event the Chief Operating Officer elects to set or adjust paid admission fees, the Chief Operating Officer shall provide the Metro Council with 45 business days notice prior to the effective date of such fees. Upon notice of said fees, the Metro Council may elect to affirm or modify paid admission fees by resolution of the Metro Council. Admission fees set by the Metro Council may thereafter be adjusted as set forth in section 4.01.050(a).

(c) Conservation Admission Surcharge. Twenty-five cents($0.25) of each regular paid admission fee shall go toward the funding of Oregon Zoo conservation initiatives.

(d) Free and Reduced Admission.

(1) The Director may set free or reduced price admission rates for individuals, groups, special events, or as otherwise in accordance with this Chapter.

(2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.

(3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.

(4) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:

(A) Metro employees and eligible family members shall be entitled to free regular Zoo admission upon presentation of a current Metro employee identification card, in accordance with the Zoo

Admission and Discount Policy for Metro Employees.

(B) Metro elected officials and eligible family members shall be entitled to free regular Zoo admission in accordance with the Zoo Admission and Discount Policy for Metro Employees.

(C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.

(D) The Zoo Director may issue reduced price admission passes to individuals using a TriMet bus or the Metro Area Express (MAX) for travel to the Zoo upon presentation of acceptable proof of fare payment, which includes TriMet passes, MAX tickets and bus transfer receipts validated on the date of Zoo entry.

(e) Special Events. The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues during hours that the Zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be determined by the Zoo Director.

(f) Shuttle Fee. The Zoo Director may establish, charge and collect a Shuttle fee from shuttle users for transport from the Zoo Shuttle Parking Lots and may adjust said Shuttle fee annually.

(Ordinance 92-412A, Sec. 2. Ordinance 93-505, Sec. 1; Ordinance 94-568; Ordinance 98-726, Sec. 6; Ordinance 98-735, Sec. 2; Ordinance 99-804, Sec. 1; Ordinance 01-915, Sec. 1; Ordinance 02-949, Sec. 1; Ordinance 02-973, Sec. 1; Ordinance 03-1016, Sec. 1; Ordinance 04-1050; Ordinance 04-1059, Sec. 2; Ordinance 06-1125, Sec. 1; Ordinance 09-1210, Sec. 1; Ordinance 12-1287, Sec. 1; Ordinance 13-1320, Sec. 1; Ordinance 15-1358A.)

4.01.060 Rules of Conduct for Public Within Zoo Premises

The following rules of conduct and regulations shall be applicable to all members of the public within Zoo Premises. In addition to penalties provided for herein or by applicable law,

adherence to these standards of conduct shall be a condition of admission to the Zoo Premises.

(a) Limited Right-of-Entry. Public entry into the Zoo Premises is prohibited except during hours of public operation as established pursuant to Section 4.01.040. Members of the public attending special events after normal hours of operation may do so only as specifically authorized by the Zoo Director, and may only enter those portions of the Zoo Premises specifically authorized for the conduct of the special event.

(b) Admission Fee Required. All members of the public entering the Zoo shall do so only after payment of the applicable admission fee except as entry may be specifically authorized by the Zoo Director or Chief Operating Officer.

(c) Destruction Prohibited. No member of the public may destroy, damage or remove any property including plants located on Zoo Premises.

(d) Protection of Zoo Animals. No member of the public shall:

(1) Kill, injure, or disturb any animal by any means except to secure personal safety;

(2) Pet, attempt to pet, handle, move, or remove the animals except where expressly permitted;

(3) Feed the animals except when and where expressly permitted;

(4) Catch, attempt to catch, trap, remove, or kill any free roaming animals inhabiting the Premises;

(5) Go over, under, between, or otherwise cross any guardrail, fence, moat, wall, or any other safety barrier; or

(6) Except as provided in paragraph (3), throw any object or material at any animal or into any animal enclosure or exhibit area.

(e) Conformity with Signs and Emergency Directions. Members of the public shall comply with official signs of a prohibitory or directory nature, and with the directions of Zoo employees.

(f) Littering. Littering, dumping or any other disposal of rubbish, trash, or other wastes, at the Zoo by any member of the public other than in designated receptacles is prohibited.

(g) Alcohol. Possession or consumption by any member of the public on the Zoo Premises of any alcoholic beverage of any nature whatsoever other than beverages purchased from Zoo employees or as expressly authorized in writing by the Zoo director is prohibited.

(h) Sound Amplification Devices. Possession or use by any member of the public of musical instruments, radios or other electric sound-producing or amplification devices that make or emit sounds audible to anyone other than the user of the device is prohibited.

(i) State and Local Laws. All members of the public on Zoo Premises shall comply with all provisions of the Oregon Criminal Code, the City of Portland Police Code, including but not limited to regulations and prohibitions pertaining to firearms and dangerous or deadly weapons, and other provisions of applicable law.

(j) Soliciting, Vending, and the Distribution of Handbills. The soliciting of alms and contributions, commercial soliciting, and vending or distribution of samples of any kind, the display or distribution of commercial advertising, and the disseminating of written materials, and canvassing for political, charitable, or religious purposes by members of the public are prohibited within the Zoo Premises, except on the sidewalks between the Washington Park parking lot and the perimeter fence surrounding the Zoo; otherwise such activity by members of the public is prohibited. Such activities must be conducted in accordance with the following conditions:

(1) Parking lot entrances, exits, and travel lanes must not be obstructed. Interference with pedestrian traffic flow is prohibited.

(2) Loudspeakers, musical instruments, and other sound-making or amplification devices of any nature are prohibited.

(3) Activity causing a crowd to gather is prohibited if pedestrian or vehicular traffic is obstructed or impeded.

(4) Activity conducted within 20 feet of an admission gate, ticket booth, entrance, or exit is prohibited.

(5) Obstructing Zoo visitors' line of travel or detaining a Zoo visitor or employee against his or her will is prohibited.

(6) Actual or threatened physical harm directed against a Zoo visitor or employee is prohibited.

(7) The sale of food or items of any nature is prohibited.

(k) Animals. Except for assistance animals authorized by ORS 659A.143, no animals shall be brought on the Premises by any member of the public. Use of assistance animals at the Zoo shall be subject to reasonable guidelines established by the Zoo Director and approved by the Chief Operating Officer.

(l) Photographs and Videography for Advertising or Commercial Purposes. No photographs, video or other images recorded in electronic form, for advertising or any other commercial purpose may be taken on the Premises by any member of the public unless officially authorized by the Zoo Director.

(m) Explosives. No member of the public while on the Zoo Premises shall carry, discharge, or set off any fireworks or explosives of any nature.

(Ordinance 92-412A, Sec. 2. Ordinance 02-973, Sec. 1; Ordinance 10-1230, Sec. 1; Ordinance 13-1320, Sec. 1; Ordinance 15-1358A.)

4.01.070 Parking Regulations

The following rules shall govern all vehicles operated within the area of the Shuttle Parking Lot and Zoo Premises:

(a) It shall be a violation of this Code for the driver of any motor vehicle or bus to violate any legend or direction contained in any sign, signal, or marking now installed or hereafter installed upon any portion of the Zoo Premises or Shuttle Parking Lot areas. Drivers of all vehicles shall drive in a careful and safe manner at all times, and shall comply with the signals and directions of the police or security officers and all posted traffic signs. Blocking of entrances, driveways, walks, loading platforms, fire lanes, or fire hydrants is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the directions of posted signs, is prohibited.

(b) Security personnel designated by the Chief Operating Officer to serve as a Zoo parking patrol shall have the authority and duty to issue parking citations in accordance with subsection (c) of this section for a violation specified by subsection (a) of this section. The Zoo parking patrol shall have no other policy authority or duty. Persons appointed as Zoo parking patrol shall be special police officers of Metro. As special police

officers, the Zoo parking patrol personnel and the Zoo parking patrol supervisor shall have authority to issue citations for violations of parking or non-moving traffic violations occurring on Zoo property or property leased from or licensed to the Zoo by third parties for Zoo Shuttle Parking Lot purposes, and particularly they shall have authority to issue citations. To the extent of the power and authority granted in this section, such personnel and their supervisor shall exercise full police power and authority.

(c) Parking Citations. Parking citations shall be in a form approved by the Metro Attorney and shall be issued by the Zoo parking patrol:

(1) In the manner set forth in the Metro Code Section 2.14.030(c)(2) and (d), with recourse in Metro's contested case hearing procedures; or

(2) In the manner set forth in Metro Code Section 2.14.030(c) and cited into Multnomah County Circuit Court.

(Ordinance 92-412A, Sec. 2. Ordinance 02-973, Sec. 1; Ordinance 04-1059, Sec. 3; Ordinance 13-1320, Sec. 1; Ordinance 15-1358A.)

4.01.080 Rules of Conduct for Members of Public in Zoo Shuttle Parking Lots

The following rules of conduct and regulations shall be applicable to all members of the public within the Zoo Property. In addition to penalties provided for herein or by applicable law adherence to these standards of conduct shall be a condition of admission to the Zoo Property.

(a) Advertising, Canvassing, Soliciting, and Disseminating of Written Materials for Political, Charitable, or Religious Purposes. Commercial or non-commercial speech activity including advertising, canvassing, soliciting, or disseminating of written materials for commercial or non-commercial purposes including political, charitable, or religious purposes is permitted only in accord with code section 4.01.060(j) and not in the Shuttle Parking Lots

(b) Littering. Littering, dumping, or any other disposal of rubbish, trash, or any solid waste on the Zoo Shuttle Parking Lots by any member of the public is prohibited.

(c) State and Local Laws. All members of the public within Zoo Shuttle Parking Lots shall comply with all provisions of the Oregon Criminal Code, the Oregon Traffic Code, the City

of Portland Police and Traffic Codes, and other provisions of applicable law.

(d) Alcohol. Possession or consumption on the Zoo Shuttle Parking Lots by any member of the public of any alcoholic beverage of any nature whatsoever is prohibited.

(Ordinance 92-412A, Sec. 2. Ordinance 02-973, Sec. 1. Ordinance 13-1320, Sec. 1.)

4.01.090 Zoo Railroad

No member of the public shall:

(a) Enter or exit the train except when the train is stopped.

(b) Enter the train without authorization.

(c) Throw or propel any object or material from or at the train.

(d) Smoke on the train.

(e) Destroy, damage, or deface the train, equipment, rolling stock, stations, tracks, or switches or attempt to do the same.

(Ordinance 92-412A, Sec. 2.)

4.01.100 Penalties

(a) Each violation of these rules and regulations shall be punishable by a fine set by the schedule of civil penalties set forth in Section 2.03.060.

(b) In addition to prosecution under paragraph (a) above, any person violating these rules and regulations may be ejected from the Zoo. The decision to eject shall be made by the Zoo Director or his/her designate, a security officer, or a peace officer.

(c) In addition to the measures prescribed in subsections (a) and (b) above, violation of these rules and regulations may be grounds for exclusion from the Zoo Premises and the Zoo Shuttle Parking Lots. In the event of a violation of these rules and regulations, or a violation of any of the laws of the State of Oregon, any police officer, Zoo security officer, Zoo Director or his/her designate, or any individual providing security services under contract with Metro may exclude for a period of not more than one (1) year, any person who violates any provision of these rules and regulations, or any of the laws of the State of Oregon.

(1) Written notice shall be given to any person excluded from the Zoo, or Zoo Shuttle Lots. In accordance with

Section 2.05.005(c), the notice shall specify the Zoo rules and regulations or state law violated and the nature of the violation, inform the person excluded of their right to request a hearing within 30 days of the date of mailing of the notice, notify them of their right to legal representation at the hearing, and shall specify the dates covered by the exclusion. The notice shall be signed by the issuing party. Warning of the consequences for failure to comply with the exclusion shall be prominently displayed on the notice.

(2) Hearings on exclusion notices shall be conducted in accordance with the contested case procedures in Chapter 2.05 of the Metro Code.

(3) At any time within the period of exclusion, a person receiving an exclusion notice may apply in writing to the Zoo Director for a temporary waiver from the exclusion. The Zoo Director may grant a temporary waiver of an exclusion upon a showing of good cause for said waiver.

(Ordinance 92-412A, Sec. 2. Ordinance 00-870, Sec. 1; Ordinance 02-973, Sec. 1; Ordinance 13-1320, Sec. 1; Ordinance 15-1358A.)

TITLE V

SOLID WASTE

Chapter	Title
5.00	Solid Waste Definitions
5.01	Solid Waste Facility Regulation[1]
5.02	Disposal Charges and User Fees
5.04	Recycling Business Assistance Program[2]
5.05	Solid Waste Flow Control
5.06	Community Enhancement Programs
5.07	Recycling Credits
5.09	Illegal Disposal[3]
5.10	Regional Solid Waste Management Plan

Repealed

Chapter	Title
5.03	Disposal Site Franchise Fees (Repealed Ord. 14-1332, Sec. 2)
5.08	Rate Review Committee (Repealed Ord. 00-860A, Sec. 2)

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[1] Formerly "Disposal Site Franchising"; renamed by Ordinance No. 95-621A, Sec. 1.

[2] Formerly "One Percent for Recycling Program"; renamed by Ordinance No. 02-937A, Sec. 2.

[3] Formerly "Illegal Dumping"; renamed by Ordinance No. 13-1311, Sec. 1.

CHAPTER 5.00

SOLID WASTE DEFINITIONS

5.00.010 Definitions

For the purposes of Title V Solid Waste, unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) "Act" shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the state of Oregon.

(b) "Activity" means a primary operation or function that is performed in a solid waste facility or at a disposal site, including but not limited to resource recovery, composting, energy recovery, and other types of processing; recycling; transfer; incineration; and disposal of solid waste; but excluding operations or functions such as segregation that serve to support the primary activity.

(c) "Agronomic application rate" has the meaning provided in OAR 340-093-0030(5).

(d) "Alternative program" means a solid waste management service proposed by a local government that differs from the service required under Chapter 5.10.

(e) "Authorized official" means a person authorized to issue citations under Chapter 5.09.

(f) "Business" means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

(g) "Business recycling service customer" means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

(h) "Chief Operating Officer" means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

(i) "Cleanup material contaminated by hazardous substances" means solid waste resulting from the cleanup of releases of hazardous substances into the environment, including petroleum contaminated soils and sandbags from chemical spills. Cleanup material contaminated by hazardous substances does not mean solid waste generated by manufacturing or industrial processes.

(j) "Closure" means the restoration of a solid waste facility or a disposal site to its condition prior to the commencement of licensed or franchised solid waste activities at the site. Closure includes, but is not limited to, the removal of all accumulations of solid waste and recyclable materials from the site.

(k) "Code" means the Metro Code.

(l) "Compost" means the stabilized product of composting.

(m) "Compostable organic waste" means organic wastes delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for making compost, notwithstanding the presence of incidental amounts or types of non-compostable materials.

(n) "Composting" means the controlled biological decomposition of organic material.

(o) "Conditionally exempt generator" (CEG) means a conditionally exempt small quantity generator as defined in 40 CFR 261.5.

(p) "Council" means the Metro Council.

(q) "DEQ" means the Department of Environmental Quality of the State of Oregon.

(r) "Department" means the Metro Finance and Regulatory Services Department in Chapter 5.09.

(s) "Designated facility" means one of the facilities constituting a part of the system designated from time to time pursuant to Chapter 5.05.

(t) "Direct haul" means the delivery of putrescible waste from a solid waste facility directly to Metro's contract operator for disposal of putrescible waste. Direct haul is an activity under Chapter 5.01.

(u) "Direct-haul disposal charge" means that fee which pays for the direct unit costs of disposal of solid waste under the disposal contract between Metro and Oregon Waste Systems, Inc. The direct-haul disposal charge is levied on solid waste that is generated or originates within the Metro boundary and is delivered directly to Columbia Ridge Landfill under Metro's disposal contract with Oregon Waste Systems, Inc., by persons other than Metro. The direct-haul disposal charge is equal to the disposal component of the disposal fee.

(v) "Director" means the Director of Metro's Solid Waste and Recycling Program in Chapter 5.10.

(w) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(x) "Disposal site" means the land and facilities used for the disposal of solid wastes whether or not open to the public, but does not include transfer stations or processing facilities.

(y) "District" has the same meaning as in Code Section 1.01.040.

(z) "Energy recovery" means a type of resource recovery that is limited to methods in which all or a part of solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(aa) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(bb) "Franchise" means the grant of authority or privilege given by the Council to operate a disposal site, transfer station, energy recovery facility, or to conduct any other activity that requires such authorization under Chapter 5.01.

(cc) "Franchisee" means the person to whom a franchise is granted by the Council under Chapter 5.01.

(dd) "Franchise fee" means the fee charged by Metro to the franchisee for the administration of the franchise.

(ee) "Hazardous waste" has the meaning provided in ORS 466.005.

(ff) "Hearings officer" means a person designated by Metro to hear and decide cases under this title.

(gg) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. Household hazardous waste may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

(hh) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(ii) "License" means the permission given by the Council or Chief Operating Officer to operate a solid waste facility not exempted or requiring a franchise under Chapter 5.01.

(jj) "Licensee" means the person to whom a license is granted by the Council or Chief Operating Officer under Chapter 5.01.

(kk) "Local government" means any city or county that is within Metro’s jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

(ll) "Local government action" means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

(mm) "Material recovery" means a type of resource recovery that is limited to mechanical methods of obtaining from solid waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material recovery includes obtaining from solid waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

(nn) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(oo) "Metro designated facility" means a facility in the system of solid waste facilities and disposal sites that is authorized under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

(pp) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(qq) "Metro South Station" is the Metro solid waste transfer station and recycling station located at 2001 Washington, Oregon City, Oregon 97045.

(rr) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system.

(ss) "Non-commercial customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(tt) "Non-putrescible waste" means any waste that contains no more than trivial amounts of putrescible materials or minor amounts of putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This category includes construction waste and demolition waste but excludes cleanup materials contaminated by hazardous substances, source-separated recyclable material, special waste, land clearing debris and yard debris.

(uu) "Non-system facility" means any solid waste facility, disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste which does not constitute part of the system.

(vv) "Non-system license" means a license issued pursuant to and in accordance with Chapter 5.05.

(ww) "Person" has the same meaning as in Code Section 1.01.040. For any person other than an individual, the acts of such person’s employees, contractors, and authorized agents shall be considered the acts of the person.

(xx) "Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(yy) "Process," "processing" or "processed" means a method or system of altering the form, condition or content of wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.

(zz) "Processing facility" means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

(aaa)"Processing residual" means the solid waste destined for disposal which remains after resource recovery has taken place.

(bbb)"Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(ccc)"Putrescible waste" means waste containing putrescible material.

(ddd)"Rate" means the amount approved by Metro and charged by the franchisee, excluding the regional system fee as established in Chapter 5.02 of this Title and franchise fee.

(eee)"Recoverable solid waste" means source-separated or homogeneous material accepted in a single transaction at Metro Central Station or at Metro South Station in a form that is usable by existing technologies, notwithstanding the presence of incidental amounts or types of contaminants, for reuse, recycling, controlled biological decomposition of organic material including composting and digestion, and the preparation of fuels that meet an engineering, industrial, or market specification; but excludes

mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

(fff)"Recyclable material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

(ggg)"Recycle" or "recycling" means any process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

(hhh)"Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

(iii)"Regional Solid Waste Management Plan" or "RSWMP" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

(jjj)"Regional system fee" means those fees which pay the cost of the Metro waste management system.

(kkk)"Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(lll)"Reload" or "reload facility" means a facility that performs only transfer and delivers all solid waste received at the facility to another solid waste facility after it receives such solid waste, generally within 24 hours of receipt.

(mmm)"Required use order" means a written order issued pursuant to Chapter 5.05 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

(nnn)"Residence" means the place where a person lives.

(ooo)"Resource recovery" means a process by which useful material or energy resources are obtained from solid waste.

(ppp)"Resource recovery facility" shall mean a facility described in Chapter 5.01 which has been designated by Metro as constituting part of the system.

(qqq)"Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(rrr)"RSWMP requirement" means the portions of the Regional Solid Waste Management Plan that are binding on local governments as set forth and implemented in Chapter 5.10.

(sss)"Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the transfer of solid waste. Segregation does not include resource recovery or other processing of solid waste. The sole intent of segregation is not to separate useful material from the solid waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

(ttt)"Solid waste" means all putrescible and non-putrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead animals; infectious waste as defined in ORS 459.386; and other such wastes, including without limitation cleanup materials contaminated with hazardous substances, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris; but the term does not include:

(1) Hazardous wastes as defined in ORS 466.005;
(2) Radioactive wastes as defined in ORS 469.300;
(3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
(4) Explosives.

(uuu)"Solid waste disposal transaction" means the usage of Metro transfer station disposal facilities, hazardous waste

facilities, or household hazardous waste collection events, by a customer for the purpose of delivering for disposal a single load of solid or hazardous waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities, hazardous waste facilities, or household hazardous waste collection event.

(vvv)"Solid waste facility" means the land and buildings at which solid waste is received for transfer, resource recovery, and/or processing but excludes disposal.

(www)"Solid waste system facility" means all facilities designated by Metro as part of its system for the management and disposal of solid and liquid waste including but not limited to all designated facilities set forth in Chapter 5.05 and any non-system facility that receives solid waste from within the Metro area whether pursuant to an authorized non-system license or otherwise.

(xxx)"Source separate" or "source separated" or "Source separation" means that the person who last uses recyclable material separates the recyclable material from solid waste.

(yyy)"Source-separated recyclable material" or "Source-separated recyclables" means solid waste that has been source separated by the waste generator for the purpose of reuse, recycling, or composting. This term includes (1) all homogenous loads of recyclable materials that have been source separated by material type for the purpose of recycling (i.e., source-sorted) and (2) residential and commercial commingled recyclable materials, which include only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials.

(zzz)"Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

(1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
(2) Waste transported in a bulk tanker.
(3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid

(Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.

(4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:

(A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.

(B) One end has been removed (for containers in excess of 25 gallons); and

(i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or

(ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or

(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

(C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured and be dry and free of contamination to be accepted as refuse.

(5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.

(6) Waste from an industrial process.

(7) Waste from a pollution control process.

(8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.

(9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.

(10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).

(11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.

(12) Any waste that requires extraordinary management or special handling. Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

(13) Medical waste.

(aaaa)"Standard recyclable materials" means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans.

(bbbb)"State" shall have the meaning assigned thereto in Chapter 1.01.

(cccc)"Substantial compliance" means local government actions, on the whole, conform to the purposes of the performance standards in Chapter 5.10 and any failure to meet individual performance standard requirements is technical or minor in nature.

(dddd)"System" shall mean any and all facilities now or hereafter designated by Metro as part of its system for the management and disposal of solid and liquid waste, including, but not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment

facilities to the extent provided or operated to carry out the provisions of the act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by Metro, all for the purpose of providing for solid and liquid waste disposal; said system consists of the designated facilities described in Chapter 5.05.

(eeee)"Transaction charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(ffff)"Transfer" means the activity of receiving solid waste for purposes of transferring the solid waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of solid waste from more than one vehicle, and compaction, but does not include resource recovery or other processing of solid waste.

(gggg)"Transfer station" means a solid waste facility whose primary activities include, but are not limited to, the transfer of solid waste to a disposal site.

(hhhh)"Unacceptable waste" means waste that is either:
(1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
(2) Special waste without an approved special waste permit. The Chief Operating Officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

(iiii)"Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from solid waste, is suitable for use in the same or other purpose(s). Types of useful materials are: material that can be reused; recyclable material; organic material(s) suitable for controlled biological decomposition such as for making compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as inert material for fill; and material intended to be used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily cover. For purposes of this Code, cleanup material contaminated by hazardous substances are not useful materials.

(jjjj)"Vermiprocessing" means a controlled method or system of biological processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

(kkkk)"Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose. For the purpose of Chapter 5.09, the term “waste” shall also include any such material even if it is broken, recoverable, or recyclable.

(llll)"Waste hauler" means any person who is (1) franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul solid waste; or (2) engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within Metro, including any person engaged in such activities with respect to solid waste generated by such person as well as any person engaged in such activities with respect to solid waste generated by others.

(mmmm)"Waste reduction hierarchy" means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

(nnnn)"Waste Reduction Program" means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RSWMP, and accepted and approved by the DEQ as part of the RSWMP.

(oooo)"Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. Yard debris includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other vegetative waste having similar properties, but does not include demolition debris, painted or treated wood.

(pppp)"Yard debris facility" means a yard debris processing facility or a yard debris reload facility.

(qqqq)"Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

(Ordinance No. 14-1331)

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CHAPTER 5.01

SOLID WASTE FACILITY REGULATION

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GENERAL PROVISIONS

5.01.020 Purpose

This chapter governs the regulation of solid waste disposal sites and solid waste facilities within Metro. The purposes of this chapter are to protect and preserve the health, safety and welfare of Metro's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; and to reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery. The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 81-111, Sec. 3; Ordinance No. 95-621A, Sec. 2. Repealed by Ordinance No. 98-762C, Sec. 2; replaced by Ordinance No. 98-762C, Sec. 3; and Ordinance No. 02-974, Sec. 1.)

5.01.025 Authority and Jurisdiction

(a) Metro's solid waste regulatory authority is established under the Constitution of the State of Oregon, ORS Chapter 268 for solid waste and the Metro Charter and includes authority to regulate solid waste generated or disposed within Metro and all solid waste facilities located within Metro.

(b) All solid waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.

(Ordinance No. 98-762C, Secs. 4-5; and Ordinance No. 02-974, Sec. 1.)

5.01.030 Prohibited Activities

Except as otherwise provided in this chapter, or in Metro Code Chapter 5.05, it shall be unlawful:

(a) For any person to establish, operate, maintain or expand a solid waste facility or disposal site within Metro without an appropriate license or franchise from Metro.

(b) For any person or solid waste facility to either (1) mix source-separated recyclable material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of source-separated

recyclable material by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

(c) For a recipient of a license or franchise to receive, process or dispose of any solid waste not authorized under the recipient's license or franchise.

(d) For any person to deliver or transport any solid waste to or to dispose of any solid waste at any place other than a solid waste facility or disposal site that is operated by a holder of a license or franchise or is exempt under Section 5.01.040 of this chapter.

(e) For a holder of a license or franchise to fail to comply with the administrative procedures or fail to meet the performance standards adopted pursuant to Section 5.01.132 of this chapter.

(f) For any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

(Ordinance No. 81-111, Sec. 4; Ordinance No. 87-217, Sec. 1; Ordinance No. 95-621A, Sec. 3; Ordinance No. 98-762C, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 2; and Ordinance No. 06-1102, Sec. 1.)

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, except as provided in Sections 5.01.040(b) through (d) below, the Metro Council declares the provisions of this chapter shall not apply to:

(1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.

(2) Disposal sites, transfer stations, or solid waste facilities owned or operated by Metro.

(3) Facilities that (A) exclusively receive non-putrescible source-separated recyclable materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.

(4) Facilities that exclusively receive, process, transfer or dispose of inert waste.

(5) The following operations, which do not constitute yard debris facilities:

(A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.

(B) Residences, parks, community gardens and homeowner associations.

(C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.

(D) Operations or facilities that chip or grind wood wastes, unless:

(i) such chipped or ground wood wastes are processed for composting; or

(ii) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.

(6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process solid waste if Metro finds an emergency situation exists.

(7) Any reload facility that:

(A) Accepts solid waste collected under the authority of a single solid waste collection franchise granted by a local government unit, or from multiple solid waste collection franchises so long as the area encompassed by the franchises is geographically contiguous; and

(B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and

(C) Delivers any putrescible waste accepted at the operation or facility to a transfer station owned, operated, licensed or franchised by Metro; and

(D) Delivers all other solid waste accepted at the facility except inert waste to a Metro designated facility authorized to accept said

solid waste, or to another solid waste facility under authority of a Metro non-system license issued pursuant to Chapter 5.05.

(8) Persons who own or operate a mobile facility that processes petroleum contaminated soil at the site of origin and retains any treated petroleum contaminated soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a), all persons shall comply with Sections 5.01.030(a), (b), (d) and (f).

(c) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter.

(d) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the provisions of Section 5.01.135 of this chapter shall apply to operations and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter.

(Ordinance No. 81-111, Sec. 5; Ordinance No. 82-136, Sec. 1; Ordinance No. 91-422B, Sec. 2; Ordinance No. 95-621A, Sec. 4; Ordinance No. 98-762C, Sec. 7; Ordinance No. 00-866, Sec. 2; Ordinance No. 02-933, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.3; Ordinance No. 06-1102, Sec. 2; and Ordinance No. 07-1147B, Sec. 2.)

(5.01.045 License and Franchise Requirements. Repealed Ord. 14-1332.)

LICENSING REQUIREMENTS

5.01.050 License Requirements and Fees

(a) A Metro solid waste license shall be required of the person owning or controlling a facility at which any of the following activities are performed:

(1) Processing of non-putrescible waste.

(2) Processing of petroleum contaminated soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.

(3) Processing or reloading of yard debris. A local government that owns or operates a yard debris facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris

standards at the facility in lieu of compliance with this chapter.

(4) Operating a reload.

(5) Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.

(b) The annual fee for a solid waste license shall not exceed three hundred dollars ($300.00). The Council may revise these fees upon 90 days written notice to each licensee and an opportunity to be heard.

(c) Upon the filing of an application, every applicant for a license, or for renewal of an existing license, shall submit an application fee of three hundred dollars ($300.00).

(d) The license fee shall be in addition to any other fee, tax or charge imposed upon a licensee.

(e) The licensee shall pay the license fee in the manner and at the time required by the Chief Operating Officer.

(Ordinance No. 81-111, Sec. 15; Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; and Ordinance No. 02-974, Sec. 1.)

(Ordinance No. 98-762C, Secs. 8-9; Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec. 4; and Ordinance No. 14-1332, Sec. 1.)

(5.01.050 Administration. Repealed Ord. 98-762C §10.)

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES

5.01.051 Pre-Application Conference for Licenses

(a) All prospective applicants for a license shall participate in a pre-application conference. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.

(b) If a prospective applicant for a license does not file an application for a license within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing another application.

(Ordinance No. 98-762C, Secs. 11-12; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.052 Applications for Licenses

(a) Applications for a license or for renewal of an existing license shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the activities proposed to be conducted and a description of wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a license shall include the following information to the Chief Operating Officer:

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the license;

(2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;

(3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the solid waste facility at any point in its active life;

(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of closure of the facility. The proposal shall include an estimate of the cost to implement the closure plan required in Section 5.01.052(c)(3). If an application is approved, the license shall require that financial assurance is in place prior to beginning any activities authorized by the license. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance

documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the closure plan required in Section 5.01.052(c)(3) will be less than $10,000.00;

(5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the licensee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the license is revoked or any license renewal is refused;

(6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

(7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.

(Ordinance No. 81-111, Sec. 7; Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.053 Issuance and Contents of Licenses

(a) Applications for licenses filed in accordance with Section 5.01.052 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each license application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the license application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed license meets the requirements of Section 5.01.052 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a license application within 120 days after the filing of a complete application, the license shall be deemed granted for the solid waste facility or activity requested in the application, and the Chief Operating Officer shall issue a license containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a license is denied, no new application for this same or substantially similar license shall be filed by the applicant for at least six (6) months from the date of denial.

(i) Licenses shall specify the activities authorized to be performed, the types and amounts of wastes authorized to be accepted at the solid waste facility, and any other limitations or conditions attached by the Chief Operating Officer. In addition to all other requirements of this section, a license approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

(1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.

(2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.

(3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.

(4) Material Recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

(5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.

(6) Record-keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

(j) The term of a new or renewed license shall be not more than five (5) years.

(Ordinance No. 98-762C, Secs. 16-17; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.8; Ordinance No. 06-1098B, Sec. 2; Ordinance No. 07-1138, Sec. 1; Ordinance No. 07-1139, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

5.01.054 Record-keeping and Reporting for Licenses

(a) Licensees shall maintain accurate records of the information required by the Chief Operating Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established by the Chief Operating Officer. Reports shall be signed and certified as accurate by an authorized representative of the licensee or franchisee.

(b) Licensees shall maintain evidence of all financial assurance mechanisms unless or until the licensee is released from the financial assurance requirements as specified in this chapter.

(c) Licensees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a solid waste facility within five (5) days of the receipt or provision of the correspondence or information.

(d) Licensees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name,

address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the licensee, or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

(f) All information submitted by the licensee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the licensee requests exception from disclosure consistent with Oregon Law.

(Ordinance No. 98-762C, Secs. 38-39; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.055 Renewal of Licenses

The Chief Operating Officer shall renew a solid waste facility license unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars ($300.00) not less than 120 days prior to the expiration of the license term, together with a statement of proposed material changes from its initial application for the license and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed license.

(Ordinance No. 98-762C, Secs. 22-23; Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.11; and Ordinance No. 14-1332, Sec. 1.)

5.01.056 Transfer of Ownership or Control of Licenses

(a) Any person in control of a license may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the license to another person unless an application therefore has been filed in accordance with Section 5.01.050 and has been granted. The proposed transferee of a license must meet the requirements of this chapter.

(b) The Chief Operating Officer shall not unreasonably deny an application for transfer of a license. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(c) The term for any transferred license shall be for the remainder of the original term unless the Chief Operating Officer

establishes a different term based on the facts and circumstances at the time of transfer.

(Ordinance No. 81-111, Sec. 10; Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

5.01.057 Change of Authorizations for Licenses

(a) A person holding a license shall submit an application pursuant to Section 5.01.052 when said person seeks authorization to:

(1) Accept wastes other than those authorized by the applicant's license, or

(2) Perform activities other than those authorized by the applicant's license, or

(3) Modify other limiting conditions of the applicant's license.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's license shall not substitute for an application that would otherwise be required under Section 5.01.050 of this chapter.

(d) A person holding a license shall notify Metro in writing when said person proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars ($100.00).

(Ordinance No. 98-762C, Secs. 25-26; Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

5.01.058 Variances for Licenses

(a) The Chief Operating Officer, may grant specific variances from particular requirements of this chapter to applicants for licenses or to licensees upon such conditions as is necessary to protect public health, safety and welfare, if the Chief Operating Officer finds that the purpose and intent of the particular license requirement can be achieved without compliance and that compliance with the particular requirement:

(1) Is inappropriate because of conditions beyond the control of the applicant, or licensee requesting the variance; or

(2) Due to special physical conditions or causes, will be rendered extremely burdensome or highly impractical.

(b) A variance must be requested by a license applicant, or a licensee, in writing and state in a concise manner facts to show cause why such variance should be granted. The Chief Operating Officer may make such investigation as the Chief Operating Officer deems necessary and shall approve or deny the variance coincident with any recommendation made on approval or denial of any license application; or, upon a request for variance from an existing licensee, within 60 days after receipt of the variance request.

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section 5.01.050 of this chapter.

(d) If the Chief Operating Officer denies a variance request, the Chief Operating Officer shall notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six (6) months from the date of denial.

(Ordinance No. 81-111, Sec. 12; Ordinance No. 98-762C, Sec. 27; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

FRANCHISING REQUIREMENTS

5.01.070 Franchise Requirements and Fees

(a) Metro solid waste franchise shall be required for the person owning or controlling a facility at which any of the following activities are performed:

(1) Processing of putrescible waste other than yard debris.

(2) Operating a transfer station.

(3) Operating a disposal site or an energy recovery facility.

(4) Any process using chemical or biological methods whose primary purpose is reduction of solid waste weight or volumes.

(5) Any other activity not listed in this section or exempted by Metro Code Section 5.01.040.

(b) The annual fee for a solid waste franchise shall not exceed five hundred dollars ($500.00). The Council may revise these fees upon 90 days written notice to each franchisee and an opportunity to be heard.

(c) The franchise fee shall be in addition to any other fee, tax or charge imposed upon a franchisee.

(d) The franchisee shall pay the franchise fee in the manner and at the time required by the Chief Operating Officer.

(e) Upon the filing of an application, every applicant for a franchise, or for renewal of an existing franchise, shall submit an application fee of five hundred dollars ($500).

(Ordinance No. 98-762C, Secs. 8-9. Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec.4; and Ordinance No. 14-1332, Sec. 1.)

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

5.01.071 Pre-Application Conference for Franchises

(a) All prospective applicants for a franchise shall participate in a pre-application conference. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.

(b) If a prospective applicant for a franchise does not file an application for a franchise within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing any application.

(Ordinance No. 98-762C, Secs. 11-12; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.072 Applications for Franchises

(a) Applications for a franchise or for renewal of an existing franchise shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a franchise shall include the following information to the Chief Operating Officer:

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the franchise;

(2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;

(3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the solid waste facility at any point in its active life;

(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of closure of the facility. The proposal shall include an estimate of the cost to implement the closure plan required in Section 5.01.072(c)(3). If an application is approved, the franchise shall require that financial assurance is in place prior to beginning any activities authorized by the franchise. However, regarding applications for franchises, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost

to implement the closure plan required in Section 5.01.072(c)(3) will be less than $10,000.00;

(5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the franchise is revoked or any franchise renewal is refused;

(6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

(7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.

(d) An application for a franchise shall be accompanied by an analysis of the factors described in Section 5.01.073(f) of this chapter.

(e) Notwithstanding any other provision in this section, Metro shall not accept an application for a new franchise for authority to operate a transfer station until January 1, 2016.

(Ordinance No. 81-111, Sec. 7; Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance

No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.073 Issuance and Contents of Franchise

(a) Applications for franchises filed in accordance with Section 5.01.072 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan, whether the proposed franchise meets the requirements of Section 5.01.072, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council, together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a franchise, the Council shall consider, but not be limited by, the following factors:

(1) Whether the applicant has demonstrated that the proposed solid waste facility and authorized activities will be consistent with the Regional Solid Waste Management Plan;

(2) The effect that granting a franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

(3) Whether granting a franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;

(4) Whether granting a franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;

(5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.

(g) The Council shall act to grant or deny a franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this section. If the Council does not act to grant or deny an application by the deadline for such action, the franchise shall be deemed granted for the solid waste facility or disposal site requested in the application, and the Chief Operating Officer shall issue a franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

(1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;

(2) The applicant substantially modifies the application during the course of the review, in which case the 120 days review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or

(3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter.

(j) If a request for a franchise is denied, no new application for this same or substantially similar franchise shall be filed by the applicant for at least six (6) months from the date of denial.

(k) The term of a new or renewed franchise shall be not more than five (5) years.

(l) The franchise shall constitute a grant of authority from the Council to accept the waste(s) and perform the activity(ies) described therein, the conditions under which these activities may take place and the conditions under which the authority may be revoked.

(m) Franchises approved by the Council shall be in writing and shall include the following:

(1) The term of the franchise;

(2) The specific activities authorized to be performed and the types and amounts of waste authorized to be accepted at the solid waste facility;

(3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and

(4) Indemnification of Metro in a form acceptable to the Metro Attorney.

(n) In addition to all other requirements of this section, a franchise approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

(1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.

(2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.

(3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.

(4) Material Recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

(5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.

(6) Record-keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

(Ordinance No. 98-762C, Secs. 19-20; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.10; Ordinance No. 07-1138, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

(5.01.080 Term of Franchise. Repealed Ord. 98-762C §21.)

(5.01.085 Franchises for Major Disposal System Components. Repealed Ord. 98-762C §21.)

5.01.074 Record-keeping and Reporting for Franchises

(a) Franchisees shall maintain accurate records of the information required by the Chief Operating Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established by the Chief Operating Officer. Reports shall be signed and certified as accurate by an authorized representative of the licensee or franchisee.

(b) Franchisees shall maintain evidence of all financial assurance mechanisms unless or until the franchisee is released from the financial assurance requirements as specified in this chapter.

(c) Franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or

local government agency related to the regulation of a solid waste facility within five (5) days of the receipt or provision of the correspondence or information.

(d) Franchisees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the franchisee or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

(f) All information submitted by the franchisee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the franchisee requests exception from disclosure consistent with Oregon Law.

(Ordinance No. 14-1332, Sec. 1.)

5.01.075 Renewal of Franchises

The Council shall approve or deny renewals of solid waste facility franchises. A franchisee seeking renewal of a franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars ($500.00) not less than 120 days prior to the expiration of the franchise term, together with a statement of proposed material changes from its initial application for the franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.073 of this chapter. The Council shall approve renewal of a solid waste facility franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.073. The Council may attach conditions or limitations to the renewed franchise.

(Ordinance No. 98-762C, Secs. 22-23. Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 11; and Ordinance No. 14-1332, Sec. 1.)

5.01.076 Transfer of Ownership or Control of Franchises

(a) Any person in control of a franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the franchise to another person unless an application therefore has been filed in accordance with Section

5.01.072 and has been granted. The proposed transferee of a franchise must meet the requirements of this chapter.

(b) The Council shall not unreasonably deny an application for transfer of a franchise. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(c) The term for any transferred franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

(Ordinance No. 81-111, Sec. 10; Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

5.01.077 Change of Authorizations for Franchises

(a) A person holding a franchise shall submit an application pursuant to Section 5.01.072 when said person seeks authorization to:

(1) Accept wastes other than those authorized by the applicant's franchise, or

(2) Perform activities other than those authorized by the applicant's or franchise, or

(3) Modify other limiting conditions of the applicant's franchise.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's franchise shall not substitute for an application that would otherwise be required under Section 5.01.070 of this chapter.

(d) A person holding a franchise shall notify Metro in writing when said person proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars ($100.00).

(Ordinance No. 98-762C, Secs. 25-26; Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

5.01.078 Variances for Franchises

(a) The Council, upon recommendation of the Chief Operating Officer, may grant specific variances from particular requirements of this chapter to applicants for franchises or to franchisees upon such conditions as the Council may deem necessary to protect public health, safety and welfare, if the Council finds that the purpose and intent of the particular franchise requirement can be achieved without compliance and that compliance with the particular requirement:

(1) Is inappropriate because of conditions beyond the control of the applicant, or franchisee requesting the variance; or

(2) Due to special physical conditions or causes, will be rendered extremely burdensome or highly impractical.

(b) A variance must be requested by a franchise applicant, or a franchisee, in writing and state in a concise manner facts to show cause why such variance should be granted. The Chief Operating Officer may make such investigation as the Chief Operating Officer deems necessary and shall make a recommendation to the Council to approve or deny the variance coincident with any recommendation made on approval or denial of any franchise application; or, upon a request for variance from an existing franchisee, within 120 days after receipt of the variance request.

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section 5.01.070 of this chapter.

(d) If the Council denies a variance request, the Chief Operating Officer shall notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six (6) months from the date of denial.

(Ordinance No. 81-111, Sec. 12; Ordinance No. 98-762C, Sec. 27; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.100 Appeals

Any applicant, franchisee or licensee is entitled to a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or

transfer a franchise or license or to grant a variance, as follows:

(a) Except as provided in subsection (c) of this section, refusal to renew a franchise or license by the Council or Chief Operating Officer, as appropriate, shall not become effective until the franchisee or licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(b) The refusal by the Council or Chief Operating Officer, as appropriate, to grant a variance, or to issue, modify or transfer a franchise or license shall be effective immediately. The franchisee, licensee or applicant may request a hearing on such refusal within 30 days of notice of such refusal.

(c) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a franchise or license or the Council or Chief Operating Officer, as appropriate, may refuse to renew a franchise or license and such action shall be effective immediately. If a franchise or license renewal is refused effective immediately, the franchisee or licensee shall have 30 days from the date of such action to request a contested case hearing.

(Ordinance No. 81-111, Sec. 11; Ordinance No. 95-621A, Sec. 6; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 14.)

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

5.01.120 General Obligations of All Regulated Parties

All persons regulated by this chapter shall:

(a) Allow the Chief Operating Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the license or franchise, and the performance standards and administrative procedures adopted pursuant to Section 5.01.132 of this chapter.

(b) Ensure that solid waste transferred from the facility goes to the appropriate destination under Section 5.01.132(a) of this chapter, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

(c) Maintain during the term of the license or franchise the types of insurance in the amounts specified in the license or franchise or such other amounts as may be required by state law

for public contracts and shall give 30 days' written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify Metro, the Council, the Chief Operating Officer, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the licensee's or franchisee's performance of or failure to perform any of its obligations under the license or franchise or this chapter.

(e) Shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the license or franchise or because of the enforcement of the license or franchise or in the event the license or franchise or any part thereof is determined to be invalid.

(Ordinance No. 81-111, Sec. 13; Ordinance No. 98-762C, Sec. 28; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 15.)

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a license or franchise for a material recovery facility or transfer station shall perform material recovery from non-putrescible waste accepted at the facility as specified in this section or as otherwise specified in its license or franchise, or shall deliver such non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.

(b) A licensee or franchisee subject to subsection (a) of this section shall recover at least 25 percent by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste shall exclude both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section shall constitute a violation enforceable under Metro Code Sections 5.01.180 and 5.01.200. After December 31, 2008, the requirements of this subsection will not be applicable to licensees or franchisees unless Metro Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.125(c).

(c) Effective January 1, 2009, a licensee or franchisee subject to subsection (a) of this section shall:

(1) Process non-putrescible waste accepted at the facility and delivered in drop boxes and self-tipping trucks to recover cardboard, wood, and metals, including aluminum. Processing residual from such a facility shall not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight (8) inches in size in any dimension.

(2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-pound sample) and provide results of such sampling to Metro in the monthly report due the month following the end of that quarter.

(3) Based on observation, audits, inspections and reports, Metro inspectors shall conduct or require additional analysis of waste residual at the facility in accordance with Section 5.01.135(c). Failure to maintain the recovery level specified in subsection (c)(1) of this section shall constitute a violation enforceable under Metro Code. The first two violations of this subsection by a single licensee or franchisee shall not result in the imposition of a civil penalty.

(4) Failure to meet the reporting requirements in subsection (c)(2) of this section shall constitute a violation enforceable under Metro Code.

(d) A holder of a franchise for a Transfer Station:

(1) Shall accept putrescible waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.

(2) Shall not accept hazardous waste unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.

(3) Shall be limited in accepting putrescible waste during any year to an amount of putrescible waste as established by the Metro Council in approving the transfer station franchise application.

(4) Shall provide an area for collecting source-separated recyclable materials without charge at the franchised solid waste facility, or at another

location more convenient to the population being served by the franchised solid waste facility.

(e) A holder of a license for a reload facility shall deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.

(f) A holder of a license or franchise for a solid waste facility shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by Metro in an operating plan.

(Ordinance No. 98-762C, Secs. 30-31; Ordinance No. 00-866, Sec. 5; Ordinance No. 01-916C, Sec. 4; Ordinance No. 02-952A, Sec. 1; Ordinance No. 03-1018A, Sec. 16; Ordinance No. 07-1147B, Sec. 3; Ordinance No. 12-1272, Sec. 3; and Ordinance No. 13-1306, Sec. 3.)

5.01.127 Direct Haul of Putrescible Waste

Franchisees authorized by Metro to deliver putrescible waste directly to a disposal site shall:

(a) Deliver said putrescible waste to Metro's contract operator for disposal of putrescible waste; and

(b) Comply with the performance standards for management of unacceptable waste adopted by the Chief Operating Officer pursuant to Section 5.01.132 of this chapter; and

(c) Provide transportation or arrange for transportation by a transportation service provider complying with the following performance standards for long-haul transportation by highway:

(1) All solid waste transported through the city limits of Arlington, Oregon, shall be subject to any routing, timing, parking or other operational requirements established by the city of Arlington.

(2) All equipment shall fulfill all federal, state, and local regulations. In addition, the use of exhaust brakes shall be prohibited altogether.

(3) All solid waste shall be transported in completely sealed containers with leak–proof design considered wind–, water–, and odor–tight, and shall be capable of withstanding arduous, heavy–duty, repetitive service associated with the long–haul transport of solid waste. Containers using tarps or flip-tops

are prohibited. Any spillage from the transport vehicles is prohibited.

(4) The average weight of solid waste payloads transported during each calendar month shall be no less than 25 tons.

(5) Any staging areas used shall be located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).

(6) All transport vehicles shall use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.

(7) Use of rest areas, turnouts, scenic vista points, and state parks shall be limited to cases of emergency.

(8) Transportation shall not be conducted in the Columbia River Gorge NSA during the following times:

(A) 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.

(B) Daylight hours on Saturdays in June, July, August, and September.

(C) All hours on Sunday in June, July, August, and September.

(9) All solid waste shall be transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.

(10) All solid waste shall be transported by use of vehicles and equipment that shall be suitably painted and present an acceptable appearance.

(11) A representative of franchisee and its transportation carrier shall annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.

(12) The franchisee shall report to Metro any accidents, citations, and vehicle inspections involving vehicles of their transportation carrier during the transporting of solid waste on behalf of the franchisee.

(13) A representative of franchisee and its transportation carrier shall meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.

(14) The franchisee shall immediately report any violations of this subsection to Metro.

(Ordinance No. 98-762C, Secs. 32-33; and Ordinance No. 02-974, Sec. 1.)

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

(5.01.130 Administrative Procedures for franchisees. Repealed Ord. 98-762C Sec. 29)

(5.01.131 Designation and Review of Service Areas and of Demand. Ordinance No. 01-916C, Secs. 2-3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 17; and repealed Ord. 12-1272. Sec. 4.)

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

(a) The Chief Operating Officer may issue administrative procedures and performance standards governing the obligations of licensees and franchisees under this chapter, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record-keeping and reporting, yard debris composting operations, non-putrescible waste material recovery, non-putrescible waste reloading, transportation of putrescible waste.

(b) The Chief Operating Officer may issue administrative procedures and performance standards to implement all provisions of this chapter.

(c) The Chief Operating Officer shall substantially amend the administrative procedures and performance standards issued under subsections (a) or (b) of this section only after providing public notice and the opportunity to comment on the proposed amendment.

(d) The Chief Operating Officer may hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure and performance standard, if the Chief Operating Officer determines that there is sufficient public interest in any such proposal.

(Ordinance No. 98-762C, Secs. 34-35; Ordinance No. 01-916C, Sec. 5; Ordinance No. 02-974, Sec. 1; Ordinance No. 07-1138, Sec. 3; and Ordinance No. 12-1272, Sec. 5.)

5.01.135 Inspections and Audits of Solid Waste Facilities

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a licensed or franchised facility, and all other solid waste facilities, at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the franchise or license is granted to assure compliance with this chapter, the Code, the franchise or license, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter.

(b) Inspections or audits authorized under subsection (a) of this section shall occur regularly and as determined necessary by the Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

(c) The Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Chief Operating Officer to the license or franchise, or to the provisions of this chapter, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the licensee, franchisee or solid waste facility operator. Such inspections or audits may include taking samples and conducting analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer shall coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to prevent the imposition of redundant requirements on operations.

(d) Any violations discovered by the inspection or audit shall be subject to the penalties provided in Section 5.01.200.

(Ordinance No. 98-762C, Secs. 36-37; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 18; and Ordinance No. 07-1147B, Sec. 4.)

5.01.137 Record-keeping and Reporting

(a) Franchisees and licensees shall maintain accurate records of the information required by the Chief Operating Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established

by the Chief Operating Officer. Reports shall be signed and certified as accurate by an authorized representative of the licensee or franchisee.

(b) Licensees or franchisees shall maintain evidence of all financial assurance mechanisms unless or until the licensee or franchisee is released from the financial assurance requirements as specified in this chapter.

(c) Licensees or franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a solid waste facility within five (5) days of the receipt or provision of the correspondence or information.

(d) Licensees or franchisees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the licensee, franchisee or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

(f) All information submitted by the licensee or franchisee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the licensee or franchisee requests exception from disclosure consistent with Oregon law.

(Ordinance No. 98-762C, Secs. 38-39; and Ordinance No. 02-974, Sec. 1.)

5.01.140 License and Franchise Fees

(a) The annual fee for a solid waste license shall not exceed three hundred dollars ($300.00), and the annual fee for a solid waste franchise shall not exceed five hundred dollars ($500.00). The Council may revise these fees upon 90 days written notice to each licensee or franchisee and an opportunity to be heard.

(b) The license or franchise fee shall be in addition to any other fee, tax or charge imposed upon a licensee or franchisee.

(c) The licensee or franchisee shall pay the license or franchise fee in the manner and at the time required by the Chief Operating Officer.

(Ordinance No. 81-111, Sec. 15; Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; and Ordinance No. 02-974, Sec. 1.)

5.01.150 Regional System Fees

(a) In accordance with Chapter 5.02 of this title, regional system fees shall apply to solid waste facilities and disposal sites which are owned, operated, licensed or franchised by Metro or which are liable for payment of such fees pursuant to a special agreement with Metro.

(b) Regional system fees shall be in addition to any other fee, tax or charge imposed upon a solid waste facility or disposal site.

(c) Regional system fees shall be separately stated upon records of the solid waste facility or disposal site.

(d) Regional system fees and finance charges on such fees shall be paid as specified in Section 5.02.055 of this Title.

(Ordinance No. 81-111, Sec. 16; Ordinance No. 86-214, Sec. 1; Ordinance No. 91-422B, Sec. 4; Ordinance No. 93-509, Sec. 2; Ordinance No. 95-621A, Sec. 7; Ordinance No. 98-762C, Sec. 41; Ordinance No. 00-866, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 19; and Ordinance No. 14-1332, Sec. 1.)

(5.01.160 Reports from Collection Services. Repealed Ord. 98-762C §42)

5.01.170 Determination of Rates

(a) The Council may establish facility rates upon finding that setting such rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

(1) Licensees shall be exempt from all rate setting; and

(2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their franchise.

(Ordinance No. 81-111, Sec. 19; Ordinance No. 82-136, Sec. 4. Renumbered by Ordinance No. 91-436A, Sec. 2, which repealed former Section 5.01.170, "Rate Review Committee." Repealed by Ordinance No. 98-762C, Sec. 43; replaced by Ordinance No. 98-762C, Sec. 44; and Ordinance No. 03-1018A, Sec. 20.)

ENFORCEMENT AND APPEALS

5.01.180 Enforcement of Franchise or License Provisions

(a) The Chief Operating Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a franchise or license as provided in this section. If, in the opinion of the Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the Chief Operating Officer shall notify the franchisee or licensee in writing of the alleged violation, and the steps necessary to be taken to correct the violation. Upon a finding that violation exists and that the franchisee or licensee is unable to or refuses to correct the violation within a reasonable time after receiving written notice thereof, the Chief Operating Officer may provide notice to the franchisee or licensee that penalties pursuant to Section 5.01.200 of this chapter shall be imposed or that the franchise or license is suspended, modified or revoked.

(b) The notice authorized by this subsection shall be based upon the Chief Operating Officer's finding that the franchisee or licensee has:

(1) Violated the franchise or license agreement, the administrative procedures or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or

(2) Misrepresented material facts or information in the franchise or license application, or other information required to be submitted to Metro;

(3) Refused to provide adequate service at a licensed or franchised site, facility or station, after written notification and reasonable opportunity to do so;

(4) Misrepresented the gross receipts from the operation of the licensed or franchised site, facility or station;

(5) Failed to pay when due the fees required to be paid under this chapter; or

(6) Been found to be in violation of a city or county ordinance if such ordinances require licensees or franchisees to comply with the Metro solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the Chief Operating Officer's revocation, modification or suspension of a franchise shall not become effective until the franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a franchisee or licensee under this chapter, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the franchise or license and may take whatever steps may be necessary to abate the danger. In addition, in the case of a franchise, the Chief Operating Officer may authorize another franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a franchise is immediately suspended, the franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code Chapter 2.05.

(e) Upon revocation or refusal to renew the franchise or license, all rights of the franchisee or licensee in the franchise or license shall immediately be divested.

(Ordinance No. 81-111, Sec. 20; Ordinance No. 82-136, Sec. 5; Ordinance No. 95-621A, Sec. 8. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 45; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 21; and Ordinance No. 14-1332, Sec. 1.)

(5.01.190 Right to Purchase. Repealed Ord. 98-762C §46)

5.01.200 Penalties

(a) Each violation of this chapter shall be punishable by a fine of not more than $500.00. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.

(b) Upon a finding that a licensee or franchisee is in violation of this chapter, the Code, the license or franchise agreement, or the administrative procedures or performance standards adopted pursuant to Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter, the Chief Operating Officer shall provide written notice to the licensee or franchisee describing the violation at the time of the inspection, and requiring the licensee or franchisee to correct the violation within the time specified on the notice.

(c) Upon a finding that the licensee or franchisee has failed to correct the violation within the specified time period, the Chief Operating Officer shall issue a citation, indicating the continuing violation, the date of re-inspection and imposing a fine as specified in subsection (a) of this section on licensees or franchisees.

(d) If after re-inspection, the Chief Operating Officer finds the licensee or franchisee has failed to correct the violation, such violation shall be punishable by a fine of $1,000.00. Notice of a final deadline for correcting the violation shall be given at the time of re-inspection.

(e) Upon a finding that the licensee or franchisee has failed to correct the violation after the final deadline, the licensee or franchisee shall be required to cease performing the activity resulting in the violation.

(f) Further inspections shall be conducted to ensure suspension of the offending activity. If the licensee or franchisee has failed to suspend the offending activity, the Chief Operating Officer shall conduct an investigation which may result in the:

(1) Imposition of a remedy suitable to Metro to be implemented by and at the expense of the licensee or franchisee;

(2) Suspension of all solid waste activities on site;

(3) Imposition of a lien on the property for the amount of the fines; or

(4) Suspension, modification or revocation of the license or franchise pursuant to Section 5.01.180 of this chapter.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by Metro upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed $500.00 per day for each day of violation.

(Ordinance No. 81-111, Sec. 22. Renumbered by Ordinance No. 91-436A, Sec. 2; Ordinance No. 98-762C, Sec. 47; Ordinance No. 98-767, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.22; and Ordinance No. 14-1332, Sec. 1.)

(5.01.210 Acceptance of Tires at a Disposal Site. Repealed Ord. 98-762C §48)

(5.01.220 Additional Provisions Relating to Issuance of a franchise for a Facility Processing Petroleum Contaminated Soil. Repealed Ord. 98-762C §48)

(5.01.230-380 Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities. Repealed Ord. 98-762C §49)

MISCELLANEOUS PROVISIONS

(5.01.400 Treatment of Existing Licenses and franchises. Repealed Ord. 03-1018A §23)

5.01.410 Miscellaneous Provisions

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter.

(b) The granting of a license or franchise shall not vest any right or privilege in the licensee or franchisee to receive specific quantities of solid waste during the term of the license or franchise.

(c) The power and right to regulate, in the public interest, the exercise of the privileges granted by a license or franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority and to enforce all such requirements against holders of licenses or franchises.

(d) To be effective, a waiver of any term or condition of a license or franchise must be in writing, signed by the Chief Operating Officer. Waiver of a term or conditions of a license or franchise shall not waive nor prejudice Metro's right of Metro otherwise to require performance of the same term or conditions or any other term or condition.

(e) A license or franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

(f) If any provision of a license or franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in the license or franchise shall not be affected.

(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to any solid waste facility or disposal site that it is authorized or required to enforce or administer.

(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

(Ordinance No. 98-762C, Secs. 52-53; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 24; and Ordinance No. 14-1332, Sec. 1.)

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CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

SECTION	TITLE
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5.02.015	Definitions (Repealed & Replaced Ord. 14-1331)
5.02.016	Scale Weights Required
5.02.020	Establishment of Disposal Fees and Charges; Procedures
5.02.025	Disposal Charges at Metro South & Metro Central Station
5.02.026	Source Separated Recyclable Disposal Charge Credit
5.02.027	Charges for Management of Household Hazardous Wastes
5.02.028	Charges for Conditionally Exempt Generator Waste
5.02.029	Charges for Recoverable Solid Waste (repealed & replaced Ord. 12-1277, § 5, eff. 8/01/12)
5.02.030	Charges for Direct-Haul Disposal
5.02.031	Special Waste Surcharge and Special Waste Permit Application Fees
5.02.035	Litter Control Surcharge
5.02.037	Disposal Charge for Compostable Organic Waste (repealed Ord. No. 12-1277, § 6, eff. 8/01/12)
5.02.040	Disposal Fees (repealed Ord. 94-531 § 5)
5.02.045	Regional System Fees
5.02.046	Special Findings for Regional System Fee Credits (repealed Ord. 07-1147B, eff. 7/01/09)
5.02.047	Regional System Fees on Cleanup Material Contaminated by Hazardous Substances (repealed and replaced Ord. 14-1323, § 4, eff. 5/14/14)
5.02.050	Regional Transfer Charge (repealed Ord. 94-531 § 7)
5.02.055	Remittance to Metro of Fees and Other Charges
5.02.060	Account Policy at Metro Solid Waste Disposal Facilities
5.02.065	Special Waste Surcharge and Special Waste Permit Application Fees; Conditionally Exempt Generator Waste (repealed Ord. 98-720A § 25)
5.02.070	Source Separated Yard Debris Disposal Charge (repealed Ord. 98-720A § 25)
5.02.075	Special Exemption from Disposal Fees
5.02.085	Out-of-District Waste (repealed Ord. 98-720A § 25)

5.02.010 Purpose

The purpose of this chapter is to establish solid waste disposal rates, charges and credit policies for the Metro South Station and the Metro Central Station and to establish the method for setting and administering appropriate fees and charges assessed on solid waste generated within Metro or delivered to solid waste facilities regulated by or contracting with Metro.

(Ordinance No. 82-146, Sec. 1. Amended by Ordinance No. 88-257, Sec. 1; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 1; Ordinance No. 91-386C, Sec. 1; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 1; Ordinance No. 98-720A, Sec. 1; Ordinance No. 02-974, Sec. 1.)

5.02.016 Scale Weights Required

All user fees or other fees submitted to Metro from any facility receiving solid waste generated within Metro shall be calculated on a tonnage basis using certified scale weights.

(Ordinance No. 82-146, Sec. 2. Amended by Ordinance No. 86-210, Sec. 1; Ordinance No. 88-257, Sec. 2; Ordinance No. 88-278, Sec. 1; Ordinance No. 89-269, Sec. 2; Ordinance No. 89-295, Sec. 1; Ordinance No. 90-337, Sec. 2; Ordinance No. 90-372, Sec. 1; Ordinance No. 91-386C, Sec. 2; Ordinance No. 91-404, Sec. 1; Ordinance No. 02-974, Sec. 1.)

5.02.020 Establishment of Disposal Fees and Charges; Procedures

(a) Purpose. The purpose of this section is to establish a consistent, predictable, open and transparent framework for the adoption of solid waste disposal fees and charges by Metro.

(b) Definitions. As used in this subsection, rates means any of Metro’s solid waste fees or charges as set forth in Metro Code section 5.02.025 or 5.02.045. Rate year means a period of 365 consecutive days (366 leap year days) commencing from the date on which a rate becomes effective.

(c) Frequency. The Council shall consider rates annually and adopt changes as needed.

(d) Rate-Making Requirements; Independent Review. Each year the Chief Operating Officer shall prepare rates for consideration by the Council. Rates shall be regarded as provisional until transmitted to the Council pursuant to paragraph (e) of this section. In preparing provisional rates the Chief Operating Officer shall:

(1) Consider all sources and uses of funds that affect the solid waste revenue fund budget during the next rate year.

(2) Follow generally accepted practices for selection of methodologies, assumptions, requirements, and other technical factors that determine the rates.

(3) Incorporate rate criteria and policies adopted by resolution of the Council pursuant to paragraph (f) of this section.

(4) Submit the provisional rates to review by at least one independent expert. The reviewer shall test the provisional rates for accuracy, adequacy, the reasonableness of underlying assumptions, compliance with applicable law and requirements, consistency with adopted criteria of the Council, and any other criteria specified by the Chief Operating Officer or recommended by the reviewer under generally accepted professional or best practices for rate review. The Chief Operating Officer shall provide the reviewer with access to the rate model, data, assumptions, criteria, and any other information that the Chief Operating Officer used to calculate the provisional rates. At the conclusion of his work, the reviewer shall deliver a written report to the Chief Operating Officer documenting the reviewer's findings, exceptions and recommendations.

(5) Perform any other forms of due diligence that the Chief Operating Officer finds necessary to meet the purpose of this section.

(e) Transmittal of Proposed Rates to the Council. Each year the Chief Operating Officer shall transmit to the Metro Council in ordinance form a set of proposed rates for consideration. At the same time that the Chief Operating Officer transmits the rates, the Chief Operating Officer shall transmit to the Metro Council:

(1) A report that documents the methodologies, data, assumptions, adopted criteria and the other factors that the Chief Operating Officer used to calculate the proposed rates including their response to the recommendations of the independent review; and

(2) The report of the independent review prepared pursuant to paragraph (d)(3) of this section.

(f) Periodic Review of Rate Criteria and Policies. From time to time the Council shall undertake a review of its adopted rate criteria and policies. The purpose of these reviews shall be to assure that adopted criteria and policies reflect the

purpose of this section, meet Metro's needs, support Metro's management of the regional solid waste system, and address any findings of the Council that result from the periodic review. The Chief Operating Officer shall initiate periodic reviews no less frequently than every three years. The Council may initiate, or the Chief Operating Officer may propose to initiate, a review of rate criteria or policies at any time.

(Ordinance No. 09-1223. Amended by No. 14-1323, Sec. 1.)

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

(1) The following charges for each ton of solid waste delivered for disposal:

(A) A tonnage charge in the dollar amount adopted by an ordinance of the Metro Council,

(B) The regional system fee as provided in Section 5.02.045,

(C) The community enhancement fee set forth in Metro Code Chapter 5.06, and

(D) The applicable DEQ fees established in Oregon Revised Statutes chapters 459 and 459A, as implemented in Chapter 340 Division 90 of Oregon Administrative Rules;

(2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and

(3) A transaction charge in the dollar amount adopted by an ordinance of the Metro Council for each solid waste disposal transaction that is:

(A) Completed at staffed scales, or

(B) Completed at the automated scales.

(C) Notwithstanding the provisions of subsection (A), the solid waste disposal transaction

charge shall be the amount authorized in subsection (B) in the event that a transaction that is otherwise capable of being completed at the automated scales must be completed at the staffed scales due to a physical site limitation, a limit or restriction of the computer operating system for the automated scales, or due to a malfunction of the automated scales.

(b) Notwithstanding subsection (a) of this section,

(1) There shall be minimum charges at Metro South Station and at Metro Central Station for the acceptance of solid wastes which shall consist of a transaction charge as set forth in Metro Code section 5.02.025(a)(3) plus a tipping charge based on the minimum load weight adopted by an ordinance of the Metro Council.

(2) The Chief Operating Officer may waive collection of the regional system fee on solid waste that is generated outside the District, and collected by a hauler that is regulated by a local government unit, and accepted at Metro South Station or Metro Central Station.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any $0.50 charge rounded down.

(d) The Director of Parks and Environmental Services may waive disposal fees created in this section for non-commercial customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

(Ordinance No. 82-146. Amended by Ordinance No. 83-163, Sec. 2; Ordinance No. 85-191, Sec. 3; Ordinance No. 86-214, Sec. 3; Ordinance No. 88-257, Sec. 4; Ordinance No. 88-278, Sec. 3; Ordinance No. 89-269, Sec. 2; Ordinance No. 89-295, Sec. 3.; Ordinance No. 90-337, Sec. 4; Ordinance No. 90-372, Sec. 2; Ordinance No. 91-386C, Sec. 4; Ordinance No. 91-405A, Sec. 1; Ordinance No. 92-455B, Sec. 1; Ordinance No. 93-482, Sec. 2; Ordinance No. 94-531, Sec. 3; Ordinance No. 95-597, Sec. 2; Ordinance No. 97-681B, Sec. 2. Repealed by Ordinance No. 98-720A, Sec. 3; replaced by Ordinance No. 98-720A, Sec. 4. Amended by Ordinance No. 99-825A, Sec. 1; Ordinance No. 01-918A,

Sec. 1; Ordinance No. 03-1000A, Sec. 1; Ordinance No. 04-1042A, Sec. 1; Ordinance No. 05-1080, Sec. 1; Ordinance No. 06-1118, Sec. 1; Ordinance No. 07-1146, Sec. 1; Ordinance No. 08-1186A, Sec. 1; Ordinance No. 09-1217A, Sec. 1; Ordinance No. 10-1237, Secs. 1 and 4; Ordinance No. 11-1257A, Sec. 1; Ordinance No. 12-1277, Sec. 1; Ordinance No. 13-1302, Sec. 1 and Ordinance No. 14-1323, Sec. 2.)

5.02.026 Source Separated Recyclable Disposal Charge Credit

Notwithstanding the provisions of Metro Code Section 5.02.025, non-commercial customers at Metro South Station or Metro Central Station who dispose of source-separated recyclable material as defined in ORS 459.005 shall receive a disposal charge credit in the amount of $3.00 for disposing of fewer than 100 pounds of recyclables and in the amount of $6.00 for 100 pounds or more of recyclables. Notwithstanding the provisions of this section, the Chief Operating Officer may designate source-separated recyclable materials that may be accepted from customers at no charge.

(Ordinance No. 98-720A, Secs. 5-6; Amended by Ordinance No. 04-1057, Sec. 1.)

5.02.027 Charges for Management of Household Hazardous Wastes

(a) There is hereby established a household hazardous waste management charge that shall be collected on household hazardous waste accepted at Metro hazardous waste facilities. Such household hazardous waste management charge shall be in lieu of all other base disposal charges, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter; and excise taxes required by Chapter 7.01.

(b) The household hazardous waste management charge shall be $5.00 for the first 35 gallons of household hazardous waste that is accepted in a single transaction in containers of 10 gallons capacity or less, and $5.00 for each additional 35 gallons (or portion thereof) of household hazardous waste that is delivered in the same transaction in containers of 10 gallons capacity or less. These fees shall not be charged for acceptance of post-consumer architectural paint under the Oregon paint stewardship system established by Oregon HB3037.

(c) The household hazardous waste management charge for household hazardous waste that is accepted in a container of greater than 10 gallons capacity shall be as follows:

(1) $5.00 for each empty container only;

(2) $10.00 for each container that contains up to 25 gallons of household hazardous waste;

(3) $15.00 for each container that contains more than 25 gallons of household hazardous waste.

(d) Each of the above charges may be waived by the Director of Parks and Environmental Services.

(Ordinance No. 98-720A, Secs. 7-8. Amended by Ordinance No. 01-907A, Sec. 2; Ordinance No. 04-1057, Sec. 2; Ordinance No. 07-1135, Sec. 1; Ordinance No. 07-1146, Sec. 2; and Ordinance No. 11-1257A, Sec. 4.)

5.02.028 Charges for Conditionally Exempt Generator Waste

(a) The amount charged for acceptance of conditionally exempt generator (CEG) waste from non-household sources shall be the actual disposal costs of such waste calculated from the current Metro contractor price schedules, Metro and/or contractor labor costs, all applicable excise taxes, and the cost of material utilized for managing the waste.

(b) Notwithstanding section (a), there shall be no charge for acceptance of:

(i) Post-consumer architectural paint under the Oregon paint stewardship system established by Oregon HB3037.

(ii) Hazardous waste generated at any facility operated by Metro.

(c) The Director of Parks and Environmental Services may waive charges established in this section in specific instances upon a finding that a waiver of such charges is in the public interest.

(Ordinance No. 98-720A, Secs. 9-10; and Ordinance No. 11-1257A, Sec. 5.)

5.02.029 Charges for Recoverable Solid Waste

(a) There are hereby established recoverable solid waste charges that shall be collected on different classes of recoverable solid wastes accepted at Metro Central Station or Metro South Station.

(b) The amount of each recoverable solid waste charge shall consist of a transaction charge as set forth in Section 5.02.025 and a tonnage charge as adopted by the Metro Council or as specified in this section.

(c) For purposes of this section 5.02.029, managing and management of recoverable solid waste shall mean any of the following activities: acceptance, onsite handling and logistics, quality assurance, mixing of wastes to meet an engineering or market specification, processing such as grinding and shredding that may alter the form but does not substantially alter the content of the waste, residuals management, reloading, transport and delivery to a recycling site, and similar activities directly related to the handling and disposition of recoverable solid waste.

(d) For purposes of this section 5.02.029, a class of recoverable solid waste is distinguished from other classes of wastes by a material difference in the cost of management or by physical characteristics that require different practices to manage the waste.

(e) The Chief Operating Officer is authorized to specify new classes of recoverable solid wastes, to set tonnage charges for new classes of recoverable solid wastes, and to change tonnage charges for existing classes of recoverable solid wastes. The Chief Operating Officer shall set the tonnage charge for each class of recoverable solid waste equal to the sum of:

(1) Metro’s contractual costs, if any, paid by Metro to any contract operator of Metro Central or Metro South Station for managing said class of recoverable solid waste, expressed on a per-ton basis;

(2) Metro’s direct costs, if any, for personnel, materials, services and capital incurred directly by Metro for managing said class of recoverable solid waste, expressed on a per-ton basis;

(3) An allocation of Metro’s administrative, overhead, capital, and fixed contractual costs that is reasonably related to managing said class of recoverable solid waste, expressed on a per-ton basis; and

(4) The enhancement fee set forth in Metro Code section 5.06.010(a).

Nothing in this subsection modifies or is intended to modify the Metro Council’s authority to set recoverable solid waste charges by ordinance at any time.

(f) The Chief Operating Officer shall provide 10 days notice to the Metro Council prior to implementing any proposed change to a recoverable solid waste tonnage charge, and when proposing a tonnage charge for a new class of recoverable solid waste. An accounting of the components of each recoverable solid

waste tonnage charge shall be kept on file with the Finance and Regulatory Services department or its successor at Metro.

(g) All recoverable solid waste charges shall be clearly posted by material class on Metro's website and at Metro Central and Metro South stations.

(h) Notwithstanding subsections (b) and (e) of this section:

(1) The Chief Operating Officer shall establish charges for recoverable solid wastes that are typically accepted and managed on a unit or count basis rather than by scale weight. These charges shall be based on Metro's actual costs for managing said wastes.

(2) The Chief Operating Officer shall establish minimum charges for loads of recoverable solid waste.

(3) The charge for accepting up to three Christmas trees in one transaction shall be the transaction charge as set forth in Metro Code Section 5.02.025.

(i) The provisions of this section shall not apply to any source-separated recyclable material that the Chief Operating Officer has designated as exempt from charges pursuant to Metro Code Section 5.02.026.

(Ordinance No. 98-720A, Secs. 11-12; Amended by Ordinance No. 06-1118, Sec. 2; repealed and replaced Ordinance No. 12-1277, Sec. 5.)

5.02.030 Charges for Direct-Haul Disposal

Each facility licensed or franchised under Metro Code Chapter 5.01 and authorized to transport solid waste directly to the Columbia Ridge Landfill shall pay to Metro a per ton charge as provided in this section for the disposal of solid waste which is generated or originates within the Metro boundary and which the facility directly transports to the Columbia Ridge Landfill.

For each ton disposed under this section during each calendar quarter, such direct-haul disposal charge shall be equal to the sum of the total amount that Metro paid to its contract operator for disposal of solid waste during the previous calendar quarter divided by the sum of the number of tons of solid waste disposed by Metro at the Columbia Ridge Landfill during the previous calendar quarter and the number of tons of solid waste disposed under direct-haul authorization during the previous calendar quarter.

(Ordinance No. 98-720A, Secs. 13-14. Amended by Ordinance No. 99-823A, Sec. 1; Ordinance No. 01-913, Sec. 1.)

5.02.031 Special Waste Surcharge and Special Waste Permit Application Fees

(a) A special waste surcharge and a special waste permit application fee shall be collected on all special wastes disposed of at Metro facilities and on all special waste permit applications. The surcharge and fee shall be in addition to any other charge or fee established by this chapter. The purpose of the surcharge and permit application fee is to require disposers of special waste to pay the cost of services provided by Metro to manage special wastes. The surcharge and fee shall be applied to all special wastes.

(b) The special waste surcharge shall be determined by Metro's actual costs in managing special waste, which costs comprise: special handling costs, cleanup costs, and lab or testing costs. The special waste surcharge shall apply to all permitted special wastes and to all non-permitted special wastes that Metro discovers at a Metro-operated facility that result in additional management costs not otherwise covered by, or incorporated within, any other Metro fee.

(c) The special waste permit application fee shall be $25.00. This fee shall be collected at the time special waste permit applications are received for processing.

(d) The special waste surcharge and special waste permit application fee shall not apply to household hazardous waste accepted at Metro hazardous waste facilities or Metro household hazardous waste collection events.

(Ordinance No. 98-720A, Secs. 15-16. Amended by Ordinance No. 01-907A, Sec. 3.)

5.02.035 Litter Control Surcharge

(a) A surcharge of $25.00 per ton, up to a maximum amount of $100.00, shall be levied against any customer who disposes of solid waste or a recoverable solid waste at Metro Central Station or at Metro South Station if, when entering the facility, any portion of the customer's waste or recoverable solid waste is unsecured and visible to Metro scalehouse personnel.

(b) No surcharge shall be levied under this section if the solid waste or recoverable solid waste is only visible through a secure covering.

(c) Notwithstanding subsection (a) of this section, a surcharge of $3.00 per solid waste disposal transaction shall be levied against any customer who disposes of a single load of solid waste or recoverable solid waste that weighs 240 pounds or less and that is unsecured and visible to Metro scalehouse personnel.

(d) The surcharge provided for in this section shall be collected in the same manner as Metro collects all other disposal fees and charges at the facility.

(Ordinance No. 82-146, Sec. 6. Amended by Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 5; Ordinance No. 91-397, Sec. 1; Ordinance No. 94-531, Sec. 4; Ordinance No. 97-681B, Sec. 3. Repealed by Ordinance No. 98-720A, Sec. 17; replaced by Ordinance No. 98-720A, Sec. 18; amended by Ordinance No. 01-898, Sec. 1; Ordinance No. 01-918A, Sec. 2; Ordinance No. 05-1080, Sec. 2; Ordinance No. 06-1118, Sec. 3.)

(5.02.037 Disposal Charge for Compostable Organic Waste. Ordinance No. 00-876A, Secs. 2-3. Amended by Ordinance No. 04-1036, Sec. 2.; Repealed Ord. No. 12-1277 Sec. 6, effective 8/01/12.)

(5.02.040 Disposal Fees. Repealed Ord. 94-531 § 5)

5.02.045 Regional System Fees

(a) The regional system fee shall be the dollar amount per ton of solid waste adopted by an ordinance of the Metro Council, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay regional system fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a designated facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a designated facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the designated facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

(c) Regional system fees shall not apply to:

(1) Solid waste received at solid waste facilities that are licensed, franchised or exempt from regulation under Chapter 5.01;

(2) Cleanup material contaminated by hazardous substances accepted at facilities that treat said cleanup material contaminated by hazardous substances to applicable DEQ standards;

(3) Useful material that is accepted at a disposal site that is listed as a Metro designated facility in Chapter 5.05 or accepted at a disposal site under authority of a Metro non-system license issued pursuant to Chapter 5.05, provided that the useful material: (A) is intended to be used, and is in fact used, productively in the operation of the disposal site such as for roadbeds or alternative daily cover; and (B) is accepted at the disposal site at no charge; or

(4) Processing residual produced by any tire processor that is regulated pursuant to Chapter 5.01 and that sorts, classifies or processes used tires into fuel or other products, provided said processing residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro license or franchise.

(d) Designated facility operators shall collect and pay to Metro the regional system fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with this chapter. There is no liability for regional system fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Regional system fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(e) All regional system fees shall be paid in the form of a remittance payable to Metro. All regional system fees

received by Metro shall be deposited in the solid waste operating fund and used only for the administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(f) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the regional system fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

(Ordinance No. 82-146, Sec. 8; Ordinance No. 85-191, Sec. 4; Ordinance No. 86-214, Sec. 4; Ordinance No. 88-257, Sec. 6; Ordinance No. 88-278, Sec. 4; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 6; Ordinance No. 90-351, Sec. 1; Ordinance No. 90-372, Sec. 3; Ordinance No. 91-386C, Sec. 6; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 6; Ordinance No. 97-681B, Sec. 4. Repealed by Ordinance No. 98-720A, Sec. 19; replaced by Ordinance No. 98-720A, Sec. 20. Amended by Ordinance No. 99-823A, Sec. 2; Ordinance No. 00-867, Sec. 3; Ordinance No. 01-918A, Sec. 3; Ordinance No. 03-1000A, Sec. 2; Ordinance No. 04-1042A, Sec. 2; Ordinance No. 05-1080, Sec. 3; Ordinance No. 06-1103, Sec. 2; Ordinance No. 06-1118, Sec. 4; Ordinance No. 07-1146, Sec. 3; Ordinance No. 08-1186A, Sec. 2; Ordinance No. 09-1217A, Sec. 2; Ordinance No. 10-1237, Secs. 2 and 4; Ordinance No. 11-1257A, Sec. 2; Ordinance No. 12-1277, Sec. 2 Ordinance No. 13-1323, Sec 3; and Ordinance No. 14-1338.)

(5.02.046 Special Findings for Regional System Fee Credits. Repealed Ord. 07-1147B, effective 7/01/09)

5.02.047 Regional System Fees on Cleanup Material Contaminated by Hazardous Substances

(a) Notwithstanding Section 5.02.045(a), there is hereby established a reduced regional system fee on cleanup material contaminated by hazardous substances that is delivered to any solid waste system facility authorized to accept such material.

(b) The regional system fee on cleanup material contaminated by hazardous substances shall be the dollar amount per ton adopted by an ordinance of the Metro Council.

(c) The Chief Operating Officer is authorized to issue administrative procedures that define the terms and conditions under which solid wastes may qualify for the reduced regional system fee. The Chief Operating Officer is further authorized to establish an application process for said reduced rate; and may approve, deny, or approve with conditions any application submitted under this process.

(Ordinance No. 98-720A, Secs. 21-22. Amended by Ordinance No. 98-762C, Sec. 55; Ordinance No. 99-805, Sec. 1; Ordinance No. 99-823A, Sec. 3; Ordinance No. 00-858, Sec. 1; Ordinance No. 00-867, Sec. 4; Ordinance No. 00-873, Sec. 2; Ordinance No. 01-897, Sec. 1; Ordinance No. 01-919B, Sec. 4; Ordinance No. 02-951B, Sec. 2; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1000A, Sec. 3; Ordinance No. 04-1042A, Sec. 3; Ordinance No. 06-1118, Sec. 5; Ordinance No. 07-1146, Sec. 4; Ordinance No. 07-1147B, Sec. 7; Ordinance No. 08-1186A, Sec. 3; Ordinance No. 09-1217A, Sec. 3; Ordinance No. 10-1237, Secs. 3-4; Ordinance No. 11-1257A, Sec. 3; Ordinance No. 12-1277, Sec. 3; repealed and replaced Ordinance No. 14-1323, Sec.4.)

(5.02.050 Regional Transfer Charge. Repealed Ord. 94-531 § 7.)

5.02.055 Remittance to Metro of Fees and Other Charges

(a) Fees and charges owed to Metro by any person pursuant to this Chapter shall constitute a debt owed to Metro, and such debt shall be extinguished only by payment of such fees and charges to Metro as provided in this section. Franchisees and other operators of designated facilities shall remit fees and charges other than excise taxes to Metro as specified in this section. In addition, waste haulers and other persons liable for the payment of user fees as provided in Metro Code Section 5.02.045(b) shall remit fees and charges other than excise taxes to Metro as specified in this section.

(b) Fees shall accrue on a monthly basis and shall be remitted to Metro by the 15th day of the month for waste disposed of in the preceding month. Fees and other charges will be delinquent if not received by Metro on or before the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows.

(Ordinance No. 93-509, Sec. 3; Ordinance No. 94-533, Sec. 1; Ordinance No. 97-681B, Sec. 5; Ordinance No. 98-720A, Sec. 23; Ordinance No. 06-1103, Sec. 3; and Ordinance No. 14-1338.)

5.02.060 Account Policy at Metro Solid Waste Disposal Facilities

(a) Disposal charges, including all fees and taxes, may be paid at the time of disposal in cash, by credit card, or by check, or may be paid under Metro's credit policy. No credit shall be granted to any person prior to approval of a credit application in a form or forms provided by Metro.

(b) Metro’s Chief Operating Officer shall establish and maintain appropriate account requirements for new and existing accounts, which requirements shall be designed to diminish Metro's risk of loss due to non-payment. Existing account holders may be required to make new application for credit or provide additional guarantees, as deemed necessary or prudent by the Chief Operating Officer.

(c) Account charges shall accrue on a monthly basis. Metro will mail statements on or about the 10th day of the month for disposal services rendered in the prior month. A statement must be paid no later than the last business day of the month in which it is mailed; the statement will be considered past due thereafter. A payment shall under no circumstances be considered received by Metro unless it is delivered personally to the Metro Department of Finance and Administrative Services during business hours or, if delivered by mail, received in Metro's mail room on or before the due date.

(d) A finance charge in the amount of the greater of $25.00 or 1.5 percent of the sum of all past due charges shall be assessed on all unpaid, past due charges commencing as of the 15th day of the month following the month in which a statement is mailed, and continuing on the 15th day of each month thereafter until paid. Finance charges will be assessed only on unpaid past due balances, and not on previously assessed finance charges. Finance charges will continue to be assessed on negotiated repayment schedules. Payments will be applied first to finance charges and then to the oldest amount past due. In addition to any other finance charge or fee, any account that has been forwarded to any collection agency for collection will also be charged a collection fee in the amount of 30 percent of the past-due balance owing at the time of collection.

(e) An account that is 15 days past due, as defined in 5.02.060(c), may be placed on a cash only basis, until all past due disposal and finance charges are paid. An account that has

been placed on a cash only basis more than twice during any 12-month period may be closed. Facility access may be denied to a person whose account is past due and unpaid for 30 days. A decision to place an account on a cash only basis or deny facility access shall be at the discretion of the Chief Financial Officer.

(f) An account customer that sells, terminates, or makes a substantial change in the scope of its business after its application for credit has been approved must notify Metro immediately. Failure to provide the notice required by this subsection may result in termination of credit at Metro facilities pending reapplication for credit.

(g) The Department of Finance and Administrative Services may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. Adjustments over $1,000.00 shall be reported to the Council in writing on a monthly basis.

(h) The Chief Operating Officer may end pursuit of an account receivable, consistent with prudent credit practices, when the likelihood of collecting does not justify further collection costs. Such action shall be reported to the Council in writing on a monthly basis when the amount exceeds $1,000.00, and amounts over $10,000.00 shall require Council approval.

(Ordinance No. 82-146, Sec. 11. Amended by Ordinance No. 90-350; Ordinance No. 91-386C, Sec. 8; Ordinance No. 92-455, Sec. 1. Repealed and re-established by Ordinance No. 93-504A. Amended by Ordinance No. 97-681B, Sec. 6; Ordinance No. 98-720A, Sec. 24; Ordinance No. 01-913, Sec. 2; Ordinance No. 02-974, Sec. 1; Ordinance No. 04-1049, Sec. 1.)

(5.02.065 Special Waste Surcharge and Special Waste Permit Application Fees; Conditionally Exempt Generator Waste. Repealed Ord. 98-720A § 25)

(5.02.070 Source Separated Yard Debris Disposal Charge. Repealed Ord. 98-720A § 25)

5.02.075 Special Exemption from Disposal Fees

(a) The Chief Operating Officer may issue on such terms as the Chief Operating Officer finds appropriate a special exemption permit to a public agency, local government, or qualified non-profit entity as specified in Code Section 5.07.030(a), (b), (d) and (j) for the purpose of waiving fees for disposal of solid waste generated within the Metro region.

(b) Commencing in Metro fiscal year 2007-08 and in each fiscal year thereafter, the Chief Operating Officer shall

provide the Metro Council with an annual report showing (1) the amount of solid waste recycled and disposed under the special exemption permits granted by the Chief Operating Officer during such fiscal year; and (2) the total expenditures arising from the exemption permits granted.

(Ordinance No. 94-531, Sec. 9. Amended by Ordinance No. 97-681B, Sec. 8; Ordinance No. 02-974, Sec. 1; Ordinance No. 06-1099B.)

(5.02.085 Out-of-District Waste. Repealed Ord. 98-720A § 25)

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CHAPTER 5.04

RECYCLING BUSINESS ASSISTANCE PROGRAM

SECTION	TITLE
5.04.005	Definitions (Repealed Ord. 14-1331)
5.04.010	Policy and Purpose
5.04.020	Funding and Budget
5.04.030	Application Process, Criteria and Approval of Loans and Grants
5.04.040	Recycling Advisory Committee (repealed Ord. 00-860A §2)
5.04.050	Administration
5.04.060	Staff Support

(Ordinance No. 02-937A, Sec. 3; and Ordinance No. 14-1331, Sec. 4.)

5.04.010 Policy and Purpose

(a) It is the policy of Metro to support the creation, expansion, preservation, and diversification of markets for recyclable materials, in partial fulfillment of waste reduction requirements set out in the Regional Solid Waste Management Plan and in Oregon law.

(b) It is further policy of Metro that support for recyclable materials shall:

(1) Be based on the solid waste management hierarchy to first reduce, second reuse, third recycle, fourth compost, and lastly recover materials diverted from solid waste; and

(2) Be directed toward enterprises that are ultimately self-sustaining.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 4; and Ordinance No. 02-974, Sec. 1.)

5.04.020 Funding and Budget

(a) The Metro Council shall create a separate account within the solid waste operating fund entitled "Recycling

Business Assistance Account" to fund projects and proposals to further the policy expressed in this chapter. The Metro Council may from time to time appropriate funds to this account. Funds not disbursed in any one budget year shall be carried forward. Revenue accruing to the account shall be invested in accordance with Metro Code Chapter 7.03.

(b) As part of Metro's annual budget process, the Council President shall propose a budget for the Recycling Business Assistance Program for approval by the Council.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 5; and Ordinance No. 02-974, Sec. 1.)

5.04.030 Application Process, Criteria and Approval of Loans and Grants

(a) There shall be an open public process for solicitation of loan and grant applications.

(b) Any person may submit proposals for funding. Applications must be in writing and must address all criteria set forth in this section.

(c) All applications shall be reviewed and any recommendation to approve or deny an application for a loan or grant shall include the reasons for acceptance or rejection of the application.

(d) Proposals recommended for approval shall be consistent with the Regional Solid Waste Management Plan and purposes of this chapter.

(e) Loans and grants shall not be approved if the loan or grant proceeds will be used to substitute for projects or programs funded by other sources.

(f) Proposals that best enhance the waste reduction goals of the Regional Solid Waste Management Plan will receive priority consideration for approval.

(g) Proposals shall be directed to the aid of private, for-profit and nonprofit businesses and shall increase or improve one or more of the following:

(1) The amount of locally-generated materials that are diverted from the waste stream and recycled;

(2) The number of uses for locally-generated recyclable materials;

(3) Use of feedstock from locally-generated recyclable materials rather than virgin materials;

(4) Markets for locally-generated recyclable materials; and

(5) Technology for the use of locally-generated recyclable material.

(h) Funds may not be provided for:

(1) The cost of preparing loan or grant applications, proposals, stock or debt offerings, formation of partnerships, incorporations or other forms of business or other financing;

(2) Ongoing costs or expenses;

(3) Payment of fines, penalties, arrears, judgments or other such obligations; or

(4) Proposals that degrade the quality of air, water and land resources.

(i) The Chief Operating Officer may establish additional criteria for loan or grant approval and may seek recommendations regarding such criteria from the Recycling Business Assistance Advisory Committee.

(j) Prior to approval of an application for a loan or grant, the Chief Operating Officer shall provide written notification to the Metro Council of the Chief Operating Officer's intent to approve the loan or grant. The Chief Operating Officer's notification shall provide the loan or grant applicant's name and address, describe the project for which the loan or grant is intended, provide the amount requested, and summarize the Recycling Business Assistance Advisory Committee's recommendation, the Chief Operating Officer's evaluation of the criteria for approval established in this section, and any other relevant issues considered during the Chief Operating Officer's

review of the application. After receiving the Chief Operating Officer's notification, the Council also may review copies of the application and any contents of the application file. Within ten (10) calendar days of receiving the Chief Operating Officer's notification, the Council may request to consider the application. If such request is made, the Chief Operating Officer shall not approve the application or disburse any loan or grant proceeds without the Council's approval. If the Council does not request to review the application within ten (10) calendar days of receiving the Chief Operating Officer's notification, the Chief Operating Officer may approve the application and may disburse the approved loan or grant proceeds.

(k) It is the policy of Metro to provide equal opportunity to all applicants for the recycling business assistance loans and grants for which provision is made in this chapter. Metro shall not discriminate against any applicant on the basis of race, color, national origin, gender, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 7; and Ordinance No. 02-974, Sec. 1.)

5.04.050 Administration

(a) The Chief Operating Officer shall administer the Recycling Business Assistance Program and shall:

(1) Receive and consider the advice of the Recycling Business Assistance Advisory Committee on all aspects of program administration;

(2) Publish the criteria for selecting projects, persons and businesses to be provided loans or grants, consistent with Section 5.04.030;

(3) Review applications for loans and grants;

(4) Prior to making a determination to approve or deny an application for a loan or a grant, receive and consider the recommendations of the Recycling Business Assistance Advisory Committee regarding each such application;

(5) Approve or deny applications for loans and grants, consistent with Section 5.04.030; and

(6) Provide a semi-annual report to the Council that includes information regarding the projects, persons and businesses that have received loans and grants, the amounts of funds disbursed for each loan or grant, and the history and current status of all outstanding loans and grants.

(b) The Recycling Business Assistance Advisory Committee shall:

(1) Make recommendations to the Chief Operating Officer regarding criteria for selecting projects, persons and businesses to be provided loans or grants;

(2) Review applications for loans and grants;

(3) Make recommendations to the Chief Operating Officer regarding approval or denial of such loans and grants; and

(4) Advise the Chief Operating Officer on all other matters as necessary to fulfill the intent of this chapter.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 6; and Ordinance No. 02-974, Sec. 1.)

5.04.060 Staff Support

The Regional Environmental Management Department shall:

(a) Provide administrative and staff support to the Recycling Business Assistance Advisory Committee. Additional technical assistance may be acquired following Metro's contract procedures. The Regional Environmental Management Department shall ensure that no funds shall be expended, disbursed or advanced from the Recycling Business Assistance Account for any administrative or staff support purpose or additional technical assistance. It is the intent of the Council that the entire amount set aside each year be disbursed for loans or grants promoting the purpose of this chapter and that all overhead and staff support expenses necessary for implementing this program

be borne by the solid waste operating fund separate from the Recycling Business Assistance Account.

(b) Ensure compliance with all federal and state law relating to lending and the provision of loans and grants by a government entity.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 8.)

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

SECTION	TITLE
5.05.010	Definitions (Repealed Ord. 14-1331)
5.05.015	Special Findings for Solid Waste Flow Control
5.05.020	Authority, Jurisdiction, and Application
5.05.025	Prohibited Activities
5.05.027	Exemptions
5.05.030	Designated Facilities of the System
5.05.031	Addition to the List of Designated Facilities
5.05.032	Deletions and Amendments to the List of Designated Facilities
5.05.033	Contents of Designated Facility List and Council Adoption Every Five Years
5.05.034	Agreements with Designated Facilities
5.05.040	License to Use Non-System Facility
5.05.041	Application for License
5.05.042	License Application Fees
5.05.043	Factors to Consider to Determine whether to issue License
5.05.044	Timetables to Determine whether to issue License
5.05.045	Issuance of Non-System License; Contents
5.05.046	Requirements to be met by License Holder
5.05.047	Failure to Comply with License
5.05.050	Issuance of Required Use Orders
5.05.055	Content of Required Use Orders; Notice
5.05.060	Requests for Reconsideration
5.05.065	Appeals to the Hearings Officer
5.05.070	Solid Waste Tracking System to be Developed
5.05.080	Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations
5.05.090	Administrative Rules
5.05.100	Contested Case Proceedings

5.05.015 Special Findings for Solid Waste Flow Control

In connection with the enactment of the provisions of this Chapter 5.05 of the Metro Code (as defined below), the Council of Metro hereby finds and determines the following:

(a) Metro has limited land and resources for the disposal, transfer and recovery of resources from solid and liquid waste,

it is the responsibility of the Council to protect and judiciously utilize such limited land and resources.

(b) Metro has developed the system as a regional waste disposal and recovery system within the framework of a regional solid waste management plan in cooperation with federal, state and local agencies for the benefit of all citizens of Metro.

(c) The purposes of this chapter are to protect and preserve the health, safety and welfare of Metro's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; to reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery; and to protect the citizens of the region from liability arising from the use of a disposal site subject to federal law.

(d) Pursuant to the authority granted to Metro under ORS 268.317 and 268.360, as amended, Metro may require any person or class of persons who generate solid or liquid waste to make use of disposal, transfer or resource recovery sites or facilities of the system or disposal, transfer or resource recovery sites designated by Metro.

(e) ORS 268.317 and 268.360, as amended, also provides Metro the authority to require any person or class of persons who pickup, collect, or transport solid or liquid waste to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.

(f) The provisions of this Chapter 5.05 are intended to be, and they shall constitute, the exercise by Metro of the powers and authority granted to it under ORS 268.317 and 268.360, as amended, and the regional solid waste management plan to require the persons and classes of persons specified herein who generate, pickup, collect or transport solid or liquid waste to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.

(Ordinance No. 89-319; Ordinance No. 01-917, Sec. 2; and Ordinance No. 02-974, Sec. 1.)

5.05.020 Authority, Jurisdiction, and Application

(a) Metro's solid waste flow control authority is established under ORS Chapter 268 for solid waste and the Metro Charter and includes authority to regulate solid waste generated within Metro.

(b) This chapter shall govern the transportation, transfer, disposal and other processing of all solid waste generated within Metro as authorized by state law, and shall govern all waste haulers and other persons who generate solid waste within Metro or who transport, transfer, dispose or otherwise deal with or process solid waste generated within Metro; provided that notwithstanding the foregoing, this chapter does not apply to or govern the transportation, transfer or processing of, or other dealing with, non-putrescible source separated recyclable materials that are reused or recycled, or are transferred, transported or delivered to a person or facility that will reuse or recycle them.

(c) All solid waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance. The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 89-319; Ordinance No. 01-917, Sec. 3; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1019, Sec. 2.)

5.05.025 Prohibited Activities

(a) Except as otherwise provided in this chapter, it shall be unlawful for any waste hauler or other person to transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the District, any solid waste facility or disposal site without an appropriate license from Metro.

(b) It shall be unlawful for any solid waste generator, hauler, contractor, or other person to state falsely, or to direct another person to state falsely, to the operator of a system facility that solid waste delivered to the facility for disposal was generated outside the District when, in fact, such solid waste was generated within the District. A solid waste

generator, hauler, or contractor shall be deemed to have directed another person to make false statements regarding the origin of solid waste under this section if the solid waste generator, hauler, or contractor knew or should have know that the person that transported the solid waste to the system facility would state falsely to the operator of a system facility that the solid waste delivered to the facility for disposal or other processing was generated outside the District when, in fact, such solid waste was generated within the District.

(Ordinance No. 01-917, Secs. 4-5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 06-1104, Sec. 1.)

5.05.027 Exemptions

(a) A license is not required of any waste hauler or other person to transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of solid waste generated within Metro, a designated facility of the system that is in compliance with all local, state, federal and Metro regulations, including any agreement entered into between Metro and the system facility.

(b) A license is not required for a government agency to transport solid waste to the Covanta Waste-to-Energy facility located in Brooks, Oregon, for the primary purpose of destroying such wastes in order to assure public safety or for the public good. Solid waste exempt under this subsection include, but are not limited to, contraband, postage stamps, expired pharmaceuticals, and lottery tickets.

(Ordinance No. 01-917, Secs. 6-7; Ordinance No. 02-974, Sec. 1; and Ordinance No. 06-1106.)

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system, the Metro Council having found that said facilities meet the criteria set forth in Metro Code Chapter 5.05:

(1) Disposal sites or solid waste facilities owned or operated by Metro.

(2) Disposal sites or solid waste facilities within Metro's boundary that are subject to Metro regulatory authority under Chapter 5.01.

(3) Disposal sites or solid waste facilities located outside Metro's boundary that the Metro Council has designated as part of the system and are authorized to accept waste generated from inside the Metro boundary as specified by and subject to:

(A) An agreement between Metro and the owner of the disposal site or solid waste facility; or

(B) A non-system license issued to the waste generator or the person transporting the waste to the disposal site or solid waste facility.

(b) The Metro Council will consider for adoption a list of designated facilities by resolution (1) every five years beginning in 2015 as set forth in Metro Code Section 5.05.033; or (2) any time there is a proposed change to the list under Metro Code Sections 5.05.031 or 5.05.032.

(c) A disposal site or solid waste facility located outside the Metro boundary may (1) apply to Metro to become a designated facility of the system; or (2) request to be removed from the list of designated facilities. The Chief Operating Officer will provide a form of application and will consider the factors set forth in Metro Code Sections 5.05.031 when determining whether to recommend to the Council addition to the designated facility list.

(Ordinance No. 14-1333; Ordinance No. 14-1334; Ordinance No. 14-1335; and Ordinance No. 14-1337.)

5.05.031 Addition to the List of Designated Facilities

The Council may add a facility to the list of designated facilities on its own motion, by recommendation of the Chief Operating Officer, or upon application by a facility under Metro Code Section 5.05.030(c). In deciding whether to add a facility to the list of designated facilities the Council shall consider:

(1) The degree to which prior users of the facility and waste types accepted at the facility are

known and the degree to which such wastes pose a future risk of environmental contamination;

(2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;

(3) The adequacy of operational practices and management controls at the facility;

(4) The expected impact on the region's recycling and waste reduction efforts;

(5) The consistency of the designation with Metro's existing contractual arrangements;

(6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and

(7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.

(Ordinance No. 14-1337.)

5.05.032 Deletions from and Amendments to the List of Designated Facilities

(a) The Council may delete a facility from the list of designated facilities on its own motion, by recommendation of the Chief Operating Officer, or upon request by a facility under Metro Code Section 5.05.030(c). In deciding whether to delete a facility from the list of designated facilities, the Council shall consider:

(1) Changes in facility operations, including without limitation whether the facility is not operating or whether the facility has changed the type of waste it accepts or the method for accepting the waste;

(2) Changes in legal requirements that apply to the facility;

(3) The facility's record of regulatory compliance, including but not limited to public health and safety and environmental rules and regulations;

(4) Changes in ownership of the facility; and

(5) Other benefits or detriments accruing to residents of the region from Council action to delete the facility from the list of designated facilities.

(b) Council may delete a facility from the list of designated facilities upon request by the facility under Metro Code Section 5.05.030(c) without considering the factors set forth in (a).

(c) The Chief Operating Officer may change the name or the address of a facility on the list of designated facilities without Council approval of a resolution so long as no substantive change, as set forth above in (a), has occurred.

(Ordinance No. 14-1337.)

5.05.033 Contents of Designated Facility List and Council Adoption Every Five Years

(a) The designated facility list will include (1) the name and address of the designated facilities located outside the Metro region; and (2) the name and address of Metro-owned facilities. Disposal sites or solid waste facilities within Metro's boundary that are subject to Metro regulatory authority are designated facilities of the system but will not be included on the list.

(b) In addition to any resolution adopted under Metro Code Sections 5.05.031 and 5.05.032, no later than July 2015 and every five years thereafter, the Metro Council will adopt by resolution a list of designated facilities.

(Ordinance No. 14-1337.)

5.05.034 Agreements with Designated Facilities

(a) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and

a designated facility located outside the region for any solid waste other than putrescible waste.

(b) An agreement or amendment to an agreement between Metro and a designated facility located outside the region for putrescible waste shall be subject to approval by the Metro Council before execution by the Chief Operating Officer.

(c) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(d) An agreement between Metro and a designated facility shall not authorize the acceptance of non-putrescible waste, which has not yet undergone material recovery, originating or generated with Metro boundaries unless:

(1) Such non-putrescible waste is received from a facility that has been issued a license or franchise pursuant to Chapter 5.01 authorizing such facility to perform material recovery on non-putrescible waste;

(2) Such non-putrescible waste is received from a designated facility that has entered into an agreement with Metro authorizing it to perform material recovery on non-putrescible waste; or

(3) The designated facility has entered into an agreement with Metro authorizing it to perform material recovery on non-putrescible waste in accordance with subsection (e) of this section.

(e) An agreement between Metro and a designated facility that authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or generated within Metro boundaries shall:

(1) Require such designated facility to perform material recovery on such waste; and

(2) Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery

facilities by Metro Code Section 5.01.125 by either:

(A) Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or

(B) Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.

(3) Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with:

(A) The performance goals described in Metro Code Sections 5.01.053(i) and 5.01.073(n); and

(B) The performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code Section 5.01.132

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 2; Ordinance No. 92-471C, Sec. 1; Ordinance No. 93-483A, Sec. 1; Ordinance No. 01-917, Sec. 8; Ordinance No. 02-979, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1019, Sec. 3; Ordinance No. 03-999; Ordinance No. 05-1081, Sec. 1; Ordinance No. 05-1083, Sec. 1; Ordinance No. 07-1138, Sec. 4; Ordinance No. 07-1147B, Sec. 10.; Ordinance No. 08-1195; Ordinance No. 08-1197A; and Ordinance No. 14-1337.)

5.05.040 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by

obtaining a non-system license in the manner provided for in this section. Applications for non-system licenses for non-putrescible waste, special waste and cleanup material contaminated by hazardous substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(Ordinance No. 14-1337.)

5.05.041 Application for License

Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

(1) The name and address of the waste hauler or person making such application;

(2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;

(3) The nature of the solid waste proposed to be covered by the non-system license;

(4) The expected tonnage of the solid waste proposed to be covered by the non-system license:

(A) The total tonnage if the application is for a limited duration non-system license; or

(B) The annual tonnage if the application is for any other non-system license;

(5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;

(6) The non-system facility at which the solid waste proposed to be covered by the non-system license

is proposed to be transported, disposed of or otherwise processed; and

(7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01 for non-putrescible waste material recovery facilities. Any applicant or licensee that is authorized or seeks to deliver non-putrescible waste to a non-system facility must demonstrate that the non-system facility will be in substantial compliance with the material recovery requirements in Metro Code Section 5.01.125.

(Ordinance No. 14-1337.)

5.05.042 License Application Fees

Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

(1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars ($250), no part of which shall be refunded to the applicant in the event that the application is denied.

(2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system

facility, the application fee shall be five hundred dollars ($500), two hundred fifty dollars ($250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars ($250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be $500, two hundred fifty dollars ($250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars ($100).

(3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars ($1,000), five hundred dollars ($500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars ($250).

(4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in section 5.02.045, the application fee shall be one hundred dollars ($100) as well as a fifty dollar ($50) fee to either renew or amend such licenses.

(Ordinance No. 14-1337.)

5.05.043 Factors to Consider To Determine Whether to Issue License

The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

(1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;

(2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;

(3) The adequacy of operational practices and management controls at the non-system facility;

(4) The expected impact on the region's recycling and waste reduction efforts;

(5) The consistency of issuing the license with Metro's existing contractual arrangements;

(6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and

(7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

(Ordinance No. 14-1337.)

5.05.044 Timetables To Determine Whether to Issue a License

(1) Non-system licenses for non-putrescible waste, special waste, cleanup material contaminated by hazardous substances, or any other solid waste other than putrescible waste.

(A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days before the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination before the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

(2) Non-system licenses for putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating

Officer shall recommend to the council specific conditions of the non-system license.

(A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 120 days before the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination before the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

(3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

(Ordinance No. 14-1337.)

5.05.045 Issuance of Non-System License; Contents

Each non-system license shall be in writing and shall set forth the following:

(1) The name and address of the waste hauler or other person to whom such non-system license is issued;

(2) The nature of the solid waste to be covered by the non-system license;

(3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;

(4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;

(5) The expiration date of the non-system license, which date shall be not more than:

(A) 120 days from the date of issuance for a limited-duration non-system license;

(B) Three years from the date of issuance for a new full-term license; and

(C) Two years from the date of issuance of a renewed full-term non-system license.

(6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.043.

(Ordinance No. 14-1337.)

5.05.046 Requirements to be met by License Holder

Each waste hauler or other person to whom a non-system license is issued shall be required to:

(1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;

(2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and

(3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.

(4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary, the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

(Ordinance No. 14-1337.)

5.05.047 Failure to Comply with License

In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.045 above or any conditions of such non-system license imposed pursuant to Section 5.05.043, then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

(1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and

(2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

(Ordinance No. 89-319; Ordinance No. 91-388; Ordinance No. 01-917, Sec. 9; Ordinance No. 02-979, Sec. 2; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 1; Ordinance No. 03-1019, Sec. 4; Ordinance No. 06-1098B, Sec. 3; Ordinance No. 06-1105; Ordinance No. 07-1138, Sec. 5; Ordinance No. 07-1139,

Sec. 3; Ordinance No. 07-1161, Sec. 2; Ordinance No. 07-1147B, Sec. 11; and Ordinance No. 14-1337.)

5.05.050 Issuance of Required Use Orders

(a) The Chief Operating Officer may issue a required use order to any waste hauler or other person within Metro, requiring the recipient to deliver waste to a specific designated facility. In issuing a required use order, the Chief Operating Officer shall comply with the provisions of this section and Section 5.05.055.

(b) The following priorities shall govern the Chief Operating Officer in determining whether to issue required use orders:

(1) To the extent consistent with state, Metro and local regulations, and facility obligations and facility limitations, waste haulers and other persons should be allowed to utilize the designated facility of their choice; and

(2) It may be necessary for the Chief Operating Officer to override the facility choice of a waste hauler or other person if the Chief Operating Officer finds that allowing specific haulers to exercise their choice appears likely to result in:

(A) The overloading or under-utilization of a specific designated facility or facilities; or

(B) Other system inefficiencies or negative impacts on the public health, safety or welfare specified by the Chief Operating Officer.

(c) If, after considering the priorities in subsection (b) of this section, the Chief Operating Officer determines that it is necessary to issue or amend required use order(s), the Chief Operating Officer may do so giving due regard to the following factors:

(1) The location of the waste hauler or other person's route and/or facilities in relation to

designated facilities, in terms of travel time and/or distance;

(2) The equipment being utilized by the hauler at the time of issuance of the order in relation to the equipment handling capabilities of designated facilities;

(3) The types of waste being disposed of by the waste hauler or other person, in relation to the capabilities of designated facilities to most appropriately process those wastes; and

(4) Other considerations deemed relevant by the Chief Operating Officer, including but not limited to other health, safety and welfare considerations.

(Ordinance No. 89-319. Sec. 5.05.040 repealed and replaced with Ordinance No. 91-388, Sec. 3; Ordinance No. 01-917, Sec. 11; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.055 Content of Required Use Orders; Notice

(a) Required use orders issued by the Chief Operating Officer shall set forth the following:

(1) The names of the waste haulers or persons to be subject to the required use order together with their addresses or places of business and telephone numbers;

(2) The type and quantity of solid waste subject to the required use order;

(3) The name and location of the designated facility that the recipient is required to use pursuant to the order;

(4) The effective date of the required use order, which date, in the absence of an emergency, shall not be less than 10 days from the date of the order; and a brief description of the procedure for requesting that the Chief Operating Officer reconsider issuance of the order, or specific details of the order; and

(5) A brief description of the procedure for requesting that the Chief Operating Officer reconsider issuance of the order, or specific details of the order; and

(6) Such other information as the Chief Operating Officer may consider necessary or appropriate.

(b) Within two days after the date of any required use order, the Chief Operating Officer shall cause notice of such required use order to be given as follows:

(1) By United States mail, postage prepaid, to each waste hauler and person to be subject to such required use order at the last known address thereof; and

(2) By any other method deemed by the Chief Operating Officer as necessary, and most likely, to ensure actual notice to the waste hauler or other person subject to the order.

(c) The failure of any waste hauler or person subject to a required use order to receive notice thereof shall not affect the validity of such required use order nor excuse such waste hauler or person from complying with the terms thereof.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 4; and Ordinance No. 14-1337.)

5.05.060 Requests for Reconsideration

(a) Any waste hauler or other person receiving a required use order may request that the Chief Operating Officer reconsider issuance of the order or specific details of the order. The request may be premised on any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.050.

(b) A request for reconsideration must be in writing, on a form provided by Metro. To be timely, a request for reconsideration must be received by the Chief Operating Officer within 30 days of the date of issuance of the required use order, as specified in the order.

(c) The Chief Operating Officer shall review a request for reconsideration and, within 15 days of receipt, issue a written affirmance of the original order, or a modified order.

(1) The affirmance or modification shall be considered timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the person requesting review.

(2) The affirmance or modification shall include a brief statement of the basis for the decision, and a brief statement of the procedure for requesting review of the decision by the Chief Operating Officer.

(d) Review by the Chief Operating Officer of a request for reconsideration is intended to be informal, and may include personal, written, or telephone contact between the waste hauler or other persons and the Chief Operating Officer or Finance and Regulatory Services staff.

(e) If the Chief Operating Officer fails to issue a timely decision, the waste hauler or other person receiving the order may appeal the decision to a hearings officer as specified in Metro Code Section 5.05.065.

(f) A request for reconsideration shall not stay the order issued. A required use order shall be effective on the date issued, and shall remain in effect until modified or revoked.

(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.065 Appeals to the Hearings Officer

(a) A waste hauler or other person receiving a required use order may appeal the Chief Operating Officer's affirmance or modification of the order to a hearings officer. The hearings officer may be asked to review any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.050.

(b) An appeal to the hearings officer shall be in writing and on a form provided by Metro. To be timely, the appeal must be received by the hearings officer within 30 days of the date

of issuance of the Chief Operating Officer's affirmed or modified order.

(c) The hearings officer shall review a request for reconsideration and, within 15 days of receipt, issue a written order affirming or modifying the decision of the Chief Operating Officer.

(1) The affirmance or modification shall be considered timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the person requesting review.

(2) The affirmance or modification shall include a brief statement of the basis for the decision, and a brief statement of the process for contested case review of the decision by the Metro Council.

(d) If a waste hauler or other person is not satisfied with the hearings officer’s decision, or if the hearings officer fails to issue a timely decision, the waste hauler or other person receiving the Order may appeal the decision to the Metro Council as a contested case proceeding. Review in such proceedings shall be limited to the following:

(1) Whether exceptional circumstances of the waste hauler or other person warrant revocation or modification of the order; or

(2) Whether the order is likely to cause extreme financial hardship to the waste hauler or other person subject to the order, warranting revocation or modification of the order.

(e) A request for reconsideration shall not stay the order issued. A required use order shall be effective on the date issued, and shall remain in effect until modified or revoked.

(Ordinance No. 91-388, Sec. 5; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.070 Solid Waste Tracking System

The Chief Operating Officer shall establish and maintain a system for tracking of solid waste generated, collected,

transported or disposed within or outside Metro for the purpose of ensuring compliance with the requirements of this chapter and to ensure equitable application of the requirements of this chapter. The Chief Operating Officer in developing the tracking system shall consider the following:

(a) Establishment of a permit or licensing system for waste haulers or persons generating, collecting, transporting or disposing of solid waste.

(b) Use of franchises.

(c) Use of personnel to monitor compliance with the requirements of this chapter.

(d) Intergovernmental agreements for exchange of information.

(e) Equipment identification.

(f) Reporting requirements by waste haulers or persons generating, transporting or disposing of solid waste.

(g) Such other criteria or methods which the Chief Operating Officer considers reasonable and appropriate.

(Ordinance No. 89-319; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.080 Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations

(a) Any waste hauler or person who violates or fails to comply with any provision of this chapter or who fails to comply with the terms and conditions of any non-system license or required use order shall be subject to the fines and penalties set forth in this section, which fines and penalties shall be assessed by the Chief Operating Officer.

(1) A fine in the amount of not to exceed $500 for each violation; and

(2) Such waste hauler or person shall not be extended any credit by Metro for the use of any facility constituting a part of the system until such time as all fines owing under this chapter as a result

of such violation or failure to comply have been paid in full.

(b) In addition to the foregoing fines and penalties:

(1) Any waste hauler or person who fails to comply with the terms and conditions of any non-system license shall be required to pay to Metro a fine in the amount equal to the regional system fee multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, disposed of or otherwise processed in violation of the terms and conditions of such non-system license;

(2) Any waste hauler or person who, without having a non-system license then in effect, transports solid waste generated within Metro to, or utilizes or causes to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility shall be required to pay to Metro a fine in an amount equal to the non-system license application fee that would have otherwise been required to authorize the waste disposed, plus an amount equal to the regional system fee and excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, recycled, disposed of or otherwise processed to or at any non-system facility; and

(3) Any waste hauler or person who violates Metro Code Section 5.05.025(b) by falsely stating the origin of waste transported to a system facility shall be required to pay to Metro a fine in an amount equal to the regional system fee multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such system facility, plus the excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such system facility.

(c) If in the judgment of the Chief Operating Officer such action is warranted, Metro shall commence an appropriate action

in a state court of competent jurisdiction for the purpose of collecting the fines and penalties provided for above and/or enjoining any violations of the provisions of this Chapter 5.05 or any non-compliance with the terms and conditions of any non-system license or required use order.

(d) A required use order may be enforced by authorized gatehouse employees at any Metro facility, by denying facility access to a waste hauler or other person who is subject to a required use order and is attempting to deliver waste to a facility not specified in the order. This enforcement shall be in addition to the fines and penalties that may be levied pursuant to this section.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 6; Ordinance No. 01-917, Sec. 12; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 2; Ordinance No. 06-1104, Sec. 2; and Ordinance No. 14-1337.)

5.05.090 Administrative Rules

Except for the system tracking pursuant to Section 5.05.070 hereof, the Chief Operating Officer is hereby authorized and empowered to make such administrative rules and regulations as the Chief Operating Officer considers proper to effectively carry out the purposes of this chapter 5.05.

(Ordinance No. 89-319; Ordinance No. 91-388, Sec. 7; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

5.05.100 Contested Case Proceedings

Any waste hauler or other person desiring to contest any decision made by the Chief Operating Officer under this chapter 5.05 shall commence a contested case proceeding pursuant to Chapter 2.05 of the Metro Code.

(Ordinance No. 89-319; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1337.)

CHAPTER 5.06

SOLID WASTE COMMUNITY ENHANCEMENT PROGRAM

Section	Title
5.06.010	Policy and Purpose
5.06.020	Authority and Jurisdiction
5.06.030	Amount of Enhancement Fee
5.06.040	Enhancement Fee Requirements and Exemptions for Solid Waste Facilities
5.06.050	Establishment and Administration of a Solid Waste Community Enhancement Program
5.06.060	Solid Waste Community Enhancement Program Advisory Committee
5.06.070	Eligibility Criteria for Solid Waste Community Enhancement Projects
5.06.080	Goals for Solid Waste Community Enhancement Projects
5.06.090	Compliance and Dispute Resolution
5.06.100	Administrative Procedures

(Formerly Metro Code Chapter 5.06 "Community Enhancement Programs" repealed and replaced by Ordinance No. 14-1344, Sec. 1.)

5.06.010 Policy and Purpose

It is the policy of Metro to establish and implement a solid waste community enhancement program at all eligible solid waste facilities in the Metro region. The purpose of the program is to rehabilitate and enhance the area around the facility from which the fees are collected.

5.06.020 Authority and Jurisdiction

Metro’s solid waste authority, including the authority to collect an enhancement fee and establish and implement a solid waste community enhancement program, is established under the Oregon Constitution, ORS Chapters 268 and 459, and the Metro Charter.

5.06.030 Amount of Enhancement Fee

Solid waste facilities subject to this chapter shall collect an amount not exceeding $1.00 on each ton of putrescible solid waste delivered to the facility and remit the funds to Metro for use as a solid waste community enhancement fee. Eligible solid waste facilities may also collect an amount not exceeding $1.00 on each ton of non-putrescible waste delivered to the facility

when the Metro Chief Operating Officer and facility owner determines it is in the public interest. Metro will set the rate of the enhancement fee under Metro Code Section 5.02.020.

5.06.040 Enhancement Fee Requirements and Exemptions for Solid Waste Facilities

(a) Solid waste facilities that operate all or in part as disposal sites, transfer stations, reload facilities, compost facilities, and energy recovery facilities, as defined by Chapter 5.00, shall collect and remit an enhancement fee under this Chapter.

(b) Where only a portion of a solid waste facility's operations qualify for collection of a fee under subsection (a), the facility shall collect and remit an enhancement fee only on the solid waste it accepts as an eligible facility.

(c) Notwithstanding section (a) above, yard debris reload and yard debris composting facilities are not subject to the requirements of this Chapter.

5.06.050 Establishment of a Solid Waste Community Enhancement Program

(a) Upon approval of a license or franchise application, the Metro Chief Operating Officer will inform a solid waste facility of the requirement to collect a solid waste community enhancement fee. The Metro Chief Operating Officer will require collection of the fee in the facility license or franchise.

(b) The Metro Chief Operating Officer will inform the local government where the facility is located that a solid waste community enhancement fee will be collected by the facility and remitted to Metro.

(c) The solid waste community enhancement program will be administered by (1) Metro directly or through a contract; or (2) the local government where the facility is located, so long as Metro and the local government agree on the terms of an intergovernmental agreement.

(d) The Metro Councilor for the district where the facility is located shall be eligible to participate in the solid waste community enhancement program, including without limitation participation as a co-chair and voting member of the community enhancement committee, regardless of whether Metro or the local government, through an intergovernmental agreement, administers the program.

(e) The Metro Chief Operating Officer will establish a timeline for implementation of a solid waste community enhancement program.

(f) The funds collected and remitted to Metro shall be used for solid waste community enhancement projects chosen by a community enhancement committee and may include administrative costs in an amount set by the Metro Chief Operating Officer.

5.06.060 Solid Waste Community Enhancement Program Advisory Committee

A solid waste community enhancement program established under this section shall have a solid waste community enhancement committee. The committee is responsible for implementation of the program, including without limitation:

(a) Establishment of the enhancement area boundary.

(b) Creation of committee bylaws.

(c) Development of a process for soliciting and selecting solid waste community enhancement projects.

(d) Compliance with the eligibility criteria set forth in Section 5.06.070 and the goals set forth in Section 5.06.080 and creation of additional criteria and goals where needed.

(e) Annually review enhancement program revenue estimates provided by Metro staff and propose how these funds will be allocated for the upcoming fiscal year or funding cycle.

(f) Presentation of an annual report to the Metro Council on all projects approved for funding.

(g) Maintenance of complete and accurate records related to the administration of the program, submitted to Metro annually.

5.06.070 Eligibility Criteria for Solid Waste Community Enhancement Projects

A solid waste community enhancement project must meet the following criteria to be eligible for funding. A solid waste community enhancement committee may apply more restrictive eligibility criteria:

(a) The project must be located in the solid waste community enhancement area boundary as specified by the solid waste community enhancement committee or the project must

benefit individuals or programs located inside the solid waste community enhancement area boundary.

(b) The project applicant must be:

(1) A non-profit organization, including without limitation a neighborhood association or charitable organization with 501(c)(3) status under the Internal Revenue Service; or

(2) A school or institution of higher learning; or

(3) A local government, local government advisory committee, department or special district provided that they include documented support from the local government executive officer.

(c) The project must not be used to replace any other readily available source of federal, state, local or regional funds.

(d) The project must not promote or inhibit religion.

(e) The project must not discriminate based on race, ethnicity, age, gender, or sexual orientation.

(f) If the project is located on private land, the project application must establish a clear public benefit and must document landowner permission.

5.06.080 Goals for Solid Waste Community Enhancement Projects

Projects shall meet one or more of the following goals and solid waste community enhancement committees shall give priority to projects that best meet with goals. A solid waste community enhancement committee may adopt additional funding goals. The project will:

(a) Improve the appearance or environmental quality of the community.

(b) Reduce the amount or toxicity of waste.

(c) Increase reuse and recycling opportunities.

(d) Result in rehabilitation or upgrade of real or personal property owned or operated by a nonprofit organization having 501(c)(3) status under the Internal Revenue Code.

(e) Result in the preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas, and/or improve the public awareness and the opportunities to enjoy them.

(f) Result in improvement to, or an increase in, recreational areas and programs.

(g) Result in improvement in safety.

(h) Benefit youth, seniors, low income persons or underserved populations.

5.06.090 Compliance and Dispute Resolution

The Metro Chief Operating Office is responsible for ensuring compliance with this Chapter.

5.06.100 Administrative Procedures

(a) The Metro Chief Operating Office may issue administrative procedures to implement this chapter.

(b) The Metro Chief Operating Officer shall issue or substantially amend the administrative procedures for this chapter only after providing public notice and the opportunity to comment on the proposed language.

(c) The Metro Chief Operating Officer may hold a public hearing on any proposed new administrative procedures or on any proposed amendment to any administrative procedure if the Metro Chief Operating Officer determines that there is sufficient public interest.

(Ordinance No. 14-1344, Sec. 1.)

CHAPTER 5.07

RECYCLING CREDITS

SECTIONS	TITLE
5.07.010	Purpose
5.07.020	Program Description
5.07.030	Eligibility Criteria
5.07.040	Annual Agreements for Credits
5.07.050	Budget Authorization

5.07.010 Purpose

The purpose of this chapter is to provide disposal cost relief at Metro solid waste disposal facilities for charitable, nonprofit entities that accomplish a significant level of waste reduction and recycling in operating programs that also have significant benefits to the region.

(Ordinance No. 90-362A, Sec. 1.)

5.07.020 Program Description

Recycling credits are established to provide disposal cost relief at Metro disposal facilities to organizations that qualify under the eligibility criteria listed in Section 5.07.030.

Recycling credits are based on an eligible organization's overall waste reduction level (summarized in this program as "recycling level"). The waste reduction level includes both reuse and recycling activities. The following formula establishes the amount of the recycling credit relative to the organization's recycling level. Recycling credits will be applied to total disposal costs at the time Metro bills the eligible organization:

If the recycling level is 70 percent or above, a 100 percent credit is granted;

If the recycling level is 65 percent or above, a 90 percent credit is granted;

If the recycling level is 60 percent or above, an 80 percent credit is granted;

If the recycling level is 55 percent or above, a 70 percent credit is granted;

If the recycling level is 50 percent or above, a 60 percent credit is granted;

If the recycling level is below 50 percent, no credit is granted.

The recycling level of the eligible organization will be based on documentation provided to Metro's solid waste Director on an annual basis. Recycling credits are not available at facilities where Metro does not serve as the billing entity.

(Ordinance No. 90-362A, Sec. 1.)

5.07.030 Eligibility Criteria

An organization qualifies to receive a recycling credit if the following criteria have been documented during the annual application process:

(a) The organization must be classified as a nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code. Furthermore, the organization submits an annual report on Federal Form 990 (Return of Organization Exempt for Income Tax).

(b) The organization must be registered as a nonprofit organization with the Corporation Commission of the State of Oregon.

(c) The organization submits an annual report to the Oregon Department of Justice Charitable Trust Section and provides assistance to needy citizens of the region and opportunities for employment to those in need of assistance and rehabilitation.

(d) The organization does not contract with for-profit organizations to collect, process, or sell used goods.

(e) The organization must be engaged, as a primary form of revenue, in the processing of donated goods for resale or reuse.

(f) The organization facilitates the opportunity to reuse and recycle for the general public via curbside collection of donated goods or staffing of drop-off sites.

(g) The waste reduction activities of the organization divert a significant amount of material that might otherwise be landfilled. A significant amount is defined as a minimum of 250 tons per year of donated goods that are either reused or recycled.

(h) The organization is a credit customer in good standing at Metro disposal facilities.

(i) The organization submits annual waste reduction data to the Metro solid waste Director by February 15th of each year which documents the organization's recycling level for the preceding calendar year using a methodology approved by Metro.

(j) No portion of Metro funds authorized by this program will benefit any religious function of any religious organization.

(Ordinance No. 90-362A, Sec. 1. Amended by Ordinance No. 02-974, Sec. 1.)

5.07.040 Annual Agreements for Credits

The Chief Operating Officer is hereby authorized to enter into annual agreements which may not extend beyond the end of the current fiscal year with organizations determined by the Chief Operating Officer to be eligible and who meet the waste reduction levels established herein. Consistent with the budget authorization adopted by the Council of Metro, as provided for in Section 5.07.050 herein, the Chief Operating Officer shall on an annual basis enter into agreements with eligible organizations so desiring and allocate available funds for recycling credits to such organizations that continue to meet the eligibility criteria and program requirements provided for herein. In the event that sufficient funds are not available to provide the level of recycling credit established in Section 5.07.020 provided for herein each agreement shall provide that the organization shall only be entitled to the receipt of the credit for tonnages actually delivered until such time as the total authorized amount has been credited throughout the program. Once the annual authorized amount is exhausted by the combined efforts of the eligible organizations then recycling credits shall no longer be available during the remaining

portion of that fiscal year unless a further authorization is approved.

The form of such agreements entered into by the Chief Operating Officer shall be consistent with the terms and provisions of this chapter and shall be in a form approved by the Metro Attorney.

(Ordinance No. 90-362A, Sec. 1. Amended by Ordinance No. 02-974, Sec. 1.)

5.07.050 Budget Authorization

The Council shall establish by ordinance, which may be the annual budget ordinance, the amount available for applying for recycling credits pursuant to this program. The Chief Operating Officer may not enter into agreements or authorize the credits in an amount greater than that provided for by the Council. The agreements authorized under Section 5.07.040 are hereby exempted from the requirements of Chapter 2.04 but may be entered into with any eligible organization making application therefore within 30 days prior to funds being available for recycling credits as authorized by the Council.

(Ordinance No. 90-362A, Sec. 1. Amended by Ordinance No. 02-974, Sec. 1.)

CHAPTER 5.09

ILLEGAL DISPOSAL

SECTION	TITLE
5.09.005	Title
5.09.010	Purpose
5.09.020	Definitions (Repealed Ord. 14-1331)
5.09.030	Jurisdiction
5.09.040	Prohibitions
5.09.050	Civil Fines and Costs
5.09.060	Persons Authorized to Issue Citations
5.09.070	Procedure for Service of Citation
5.09.080	Issuance of Warnings
5.09.090	Citation Content
5.09.100	Representation at Hearing
5.09.110	Appearance by Cited Person
5.09.120	Prehearing Discovery
5.09.130	Procedures Before Hearings Officer
5.09.140	Failure to Appear by Cited Person
5.09.150	Review of Hearings Officer Decisions
5.09.160	Collection of Civil Fines and Costs
5.09.170	Administrative Policies and Procedures
5.09.180	Severability
5.09.190	Authority to Settle

5.09.005 Title

This chapter may be cited as the "Metro Illegal Disposal Ordinance."

(Ordinance No. 94-557.)

5.09.010 Purpose

The purposes of this chapter are:

(a) To carry out Metro's responsibility to manage the flow of solid waste in the Portland metropolitan area;

(b) To assist and coordinate with local governments in controlling illegal disposal throughout the Metro region;

(c) To carry out the provisions related to illegal disposal in the Regional Solid Waste Management Plan; and

(d) To prevent fraudulent and unauthorized deliveries of hazardous waste to Metro transfer stations and household hazardous waste facilities.

(Ordinance No. 94-557; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

(Ordinance No. 94-557; Ordinance No. 06-1107; Ordinance No. 13-1311; and Ordinance No. 14-1331, Sec. 6.)

5.09.030 Jurisdiction

This chapter shall apply to all territory within the boundaries of Metro, as well as any additional area as may be established through an intergovernmental agreement.

(Ordinance No. 94-557.)

5.09.040 Prohibitions

(a) No person shall transport or carry, or direct another person to transport or carry, any solid waste, including rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road right-of-way within Metro, unless such solid waste or recyclable material is:

(1) Completely covered on all sides and on the top and bottom and such cover is either a part of or securely fastened to the body of the motor vehicle or trailer; and

(2) Contained in the body of the motor vehicle or trailer in such a way as to prevent any part of the solid waste or recyclable material from being deposited upon any private or public property, road, right-of-way or driveway within Metro.

(b) No person shall throw or place any solid waste, or direct another person to throw or place any solid waste, upon the private land or waters of another person, into a solid waste receptacle of another person without the permission of the owner, upon public lands or waters, or upon any public place other than at a solid waste facility authorized to accept such waste by Oregon law and the Metro Code.

(c) No person who has generated or otherwise has possession or control of solid waste shall direct or permit another person to dispose of such solid waste if the person who has generated or otherwise has possession or control of such solid waste knows, or has reason to know, that the person directed or permitted to dispose of such solid waste will not dispose of such solid waste in compliance with all applicable local, state, and federal laws and regulations. No person whose solid waste was collected by a hauler that is franchised or otherwise authorized by a local government to collect waste shall be held in violation of this chapter for illegal disposal of such waste.

(d) No person shall deliver to a Metro transfer station any hazardous waste, other than hazardous waste delivered to a Metro household hazardous waste facility, that is household hazardous waste or hazardous waste generated by a conditionally exempt generator.

(e) No person shall deliver to a Metro household hazardous waste facility or collection event any hazardous waste other than household hazardous waste or hazardous waste generated by a conditionally exempt generator.

(f) No person shall make a false statement to Metro certifying that hazardous waste they have delivered to a Metro household hazardous waste facility or collection event for disposal or recovery is household hazardous waste or hazardous waste generated by a conditionally exempt generator.

(g) No person shall deliver non-putrescible solid waste generated within Metro that has not undergone material recovery, or direct another person to deliver such solid waste, to any facility other than a Metro-authorized material recovery facility.

(Ordinance No. 94-557; Ordinance No. 02-974, Sec. 1; and Ordinance No. 06-1107.)

5.09.050 Civil Fines and Costs

(a) Any person violating any provision of this chapter shall be subject to:

(1) A civil fine of not more than $500 for each violation; and

(2) An award of costs to reimburse Metro for the following actual expenses:

(A) administrative costs of investigation and collection; and

(B) cleanup, management, and disposal costs incurred.

The fines and costs shall be included in the citation and a hearings officer shall not assess additional fines or costs except the hearings officer may assess an additional fee, not to exceed $50, if a party fails to appear at a hearing that he or she requested, unless for good cause shown.

(b) Payment of a civil fine imposed by a citation issued under this chapter does not relieve a violator of responsibility to remedy the violation.

(c) Nothing in this chapter is intended to prevent other legal action against a person alleged to have violated a provision enforceable under this chapter. Metro, or any person or governmental entity whose interest is or may be affected by violation of a provision enforceable under this chapter, may take whatever legal or equitable action necessary to abate a nuisance, impose criminal sanctions or collect damages, regardless of whether an action has been commenced under this chapter. Violation of Metro Code 5.09.040 is hereby declared to be a nuisance and subject to abatement or injunction as any other nuisance.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 1; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.060 Persons Authorized to Issue Citations

The following persons are authorized to issue citations under this chapter:

(a) The Chief Operating Officer or designee; and

(b) A police officer, deputy sheriff, or other designated enforcement agent operating under cooperative arrangement or contract with Metro.

(Ordinance No. 94-557; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.070 Procedure for Service of Citation

(a) An authorized official shall serve a citation on a cited person in at least one of the following ways:

(1) Personally;

(2) By delivery to a person over 14 years of age residing at the cited person's abode, if the cited person is not available at the abode for service;

(3) If the person to be issued a citation is a firm, corporation, or other organization other than an individual, by delivery to any employee, agent or representative thereof, including such cited person's registered agent; or

(4) By certified or registered mail, return receipt requested. If the cited person is an individual, then such service shall be addressed to the person's abode. If the cited person is a corporation, firm, or other business entity, then such service shall be addressed to the person's registered agent or to any officer, director, general partner, or managing agent of such person.

(b) An authorized official may not arrest any person for violation of this chapter. An authorized official may detain any person reasonably believed to have committed a violation of this chapter, but only so long as is necessary to determine, for the purposes of issuing a citation, the identity of the violator and such additional information as is appropriate for law enforcement agencies in the state.

(Ordinance No. 94-557; and Ordinance No. 06-1107.)

5.09.080 Issuance of Warnings

(a) A person authorized to issue a citation under this chapter may issue a warning of an alleged violation under this chapter.

(b) If issued, a warning notice shall be in writing and shall be delivered to the person alleged to have committed the violation in person or in any other manner reasonably calculated

to give notice of the violation, including posting or regular mail.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 2; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.090 Citation Content

(a) A citation substantially conforming to the requirements of this section and approved by the Chief Operating Officer and the Metro Attorney shall be used for all violations enforceable under this chapter.

(b) Each citation shall contain the following information:

(1) Identification of Metro, as the public body in whose name the action is brought;

(2) Hearings officer file number;

(3) Name of the cited person;

(4) The Metro Code section violated;

(5) The date and time at which the violation is alleged to have occurred, or the date the violation was first observed by the authorized official issuing the citation or a complainant;

(6) A short and plain statement of the violation of which the person is charged;

(7) The place at which the violation is alleged to have occurred;

(8) The date on which the citation was issued;

(9) The name of the authorized official issuing the citation;

(10) The amount of the civil fines and costs imposed for the violation;

(11) An explanation that paying the civil fine assessed in the citation does not relieve the cited person of the responsibility to remedy the

violation, and that failure to remedy the violation may result in additional citations;

(12) The time by which the cited person must respond to the citation by either (a) requesting a hearing, (b) admitting responsibility and paying the civil fine and costs, or (c) paying the civil fine and costs and submitting a written explanation of why the cited person should not be found in violation of the Metro Code or of any mitigating circumstances related to the violation, and requesting that a hearings officer reduce and refund all or part of the civil fine and costs paid;

(13) The place where the cited person must direct his or her response;

(14) A notice statement informing the cited person that failure to respond to the citation could result in the entry of a default order against the cited person, including the imposition of a civil fine of up to $500 per violation plus additional costs incurred to investigate the violation; to cleanup, manage, and dispose of solid waste that is the subject of the violation; and to collect all civil fines and costs. The notice shall further inform the cited person that the failure to pay civil fines and costs imposed by order of a hearings officer could result in entry of a judgment against the cited person for the unpaid civil fines and costs, the county clerk recording the person’s name and the amount of the fines and costs in the county clerk lien record, and Metro seeking other legal or equitable relief as provided by law;

(15) A certification by the authorized official issuing the citation, under penalty of ORS 153.990, that the authorized official issuing the citation has reasonable grounds to believe, and does believe, that the cited person committed a violation enforceable under this chapter. A certificate conforming to this subsection shall be deemed equivalent to a sworn citation; and

(16) The method of service and certification that service has been made. If service is made by certified or registered mail, return receipt requested, it shall be so stated on the citation and the required certification of service may be made upon receipt of the "return receipt." Service by certified or registered mail shall be as specified in Section 5.09.070(a)(4).

(c) An error in transcribing information into a citation, when determined by the hearings officer to be non-prejudicial to the defense of the cited person, may be corrected at the time of hearing or prior to time of hearing with notice to the cited person. Except as provided in this subsection, a citation that does not conform to the requirements of this section shall be set aside by the hearings officer upon motion of the cited person before any other proceedings at the hearing. Minor variations in the form of citation shall not be a basis for setting aside a citation.

(d) Nothing prohibits the hearings officer from amending a citation in the hearings officer's discretion.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 3; Ordinance No. 06-1107. Ordinance No. 13-1311.)

5.09.100 Representation at Hearing

(a) A cited person may retain an attorney, at the person’s own expense, for representation at the hearing provided that written notice of such representation is received by the Metro Attorney five working days in advance of the hearing. The hearings officer may waive this notice requirement in individual cases or reset the hearing for a later date.

(b) When a cited person is not represented by legal counsel at the hearing, then Metro shall not be represented by legal counsel at the hearing. In such case, Metro legal counsel may advise Metro staff in preparation of the case, be present at the hearing for the purpose of consulting with and advising Metro staff, and answer procedural questions posed by the hearings officer. Nothing prevents the unrepresented party from consenting to legal counsel representing Metro at the hearing.

(Ordinance No. 94-557; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.110 Appearance by Cited Person

(a) The cited person shall either appear as specified in the citation on or before the close of business on the date indicated in the citation, or prior to such time deliver to the address noted in the citation:

(1) A request for a hearing;

(2) A statement of responsibility and a check, cash or money order in the amount of the civil fine set forth in the citation; or

(3) A statement of explanation in mitigation of the offense charged with a request for a reduction in fines and costs and a check, cash, or money order in the amount of the civil fine set forth in the citation, which combined shall constitute a waiver of hearing and consent to judgment by the hearings officer.

(b) If the cited person requests a hearing, the hearings officer shall fix a date and time for a hearing. Unless notice is waived, the hearings officer shall mail to the cited person a notice of the date and time of the hearing at least five working days prior to the hearing. The notice shall:

(1) Be in the form of a "Notice to Appear" and contain a warning that if the cited person fails to appear, a finding of responsibility will be entered against that person; and

(2) Be sent to the cited person at the person's last known address by regular mail.

(c By agreement of all parties, the hearing may be conducted using technology such as the telephone or video conferencing equipment. If setting a hearing by telephone or video conference, the hearings officer shall set the date and time by which the parties must exchange documents, exhibits, and witness lists.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 4; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.120 Prehearing Discovery

The pretrial discovery rules in ORS 135.805 to 135.873 shall apply to violation cases under this chapter. As used in ORS 135.805 to 135.873, "district attorney" shall refer to a Metro attorney or authorized official, and "defendant" shall refer to a cited person under this chapter.

(Ordinance No. 94-557; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.130 Procedures Before Hearings Officer

(a) An allegation of violation of any provision of this chapter shall, if not admitted by the cited person or settled by the department prior to or during the hearing, be resolved by a hearings officer.

(b) The hearings officer shall be independent of all Metro departments although, for administrative purposes, such officer or officers may be established as part of the Finance and Regulatory Services Department, Office of the Metro Attorney, or Office of the Auditor.

(c) Metro shall have the burden of proving the alleged violation by a preponderance of the evidence.

(d) The hearings officer shall apply the following rules of evidence:

(1) All evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in conducting their serious affairs shall be admissible.

(2) Evidence objected to may be admitted at the hearing officer’s discretion and all evidence offered but not objected to shall be received. All evidence is subject to the hearings officer's discretion to exclude irrelevant, prejudicial, untimely or unduly repetitious evidence and to weigh all evidence received.

i. Relevant evidence. Relevant evidence means evidence having any tendency to make the existence of any material fact more or

less probable than it would be without the evidence.

ii. Prejudicial evidence. Prejudicial evidence means evidence whose probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or considerations of undue delay, waste of time or needless presentation of cumulative evidence.

(3) Rulings on the admissibility or exclusion of evidence may be made at the hearing or at the time an order is issued.

(4) Upon reconsideration of an evidentiary ruling, a hearings officer shall preclude action only if the ruling was both erroneous and substantially prejudicial to the rights of a party.

(5) The hearings officer shall give effect to the rules of privilege recognized by law.

(e) A name of a person found on solid waste in such a way that it denotes ownership of the items constitutes rebuttable evidence that the person has violated Metro Code 5.09.040(b) or 5.09.040(c). The hearings officer shall determine at the hearing whether the evidence in question is sufficient to give rise to a rebuttable presumption of responsibility against the cited person, and shall so notify the cited person following presentation of Metro's case.

(f) The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communication made to the hearings officer on a fact in issue during the pendency of the proceedings. The hearings officer shall notify the parties of the communication and of their right to rebut such communication.

(g) The hearings officer shall have the authority to administer oaths and take testimony of witnesses. In response to a request by Metro or the cited person, or upon the hearings officer's own motion, the hearings officer may issue subpoenas in accordance with the following provisions of this section, or if not addressed herein, with the Oregon Rules of Civil Procedure:

(1) Metro or the cited person shall request that the hearings officer order witnesses to appear by subpoena in writing at any time at least five days prior to the scheduled hearing.

(2) A $15 deposit for each witness shall accompany each request for a subpoena by a cited person. The deposit will be refunded, as appropriate, if the witness cost is less than the amount deposited.

(3) Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases.

(4) If a civil fine is imposed in the final order, the order shall include an order for payment of actual costs for any witness fees attributable to the hearing.

(h) The parties shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence.

(i) The cited person may not be required to be a witness in the hearing of any violation under this chapter.

(j) Proof of a culpable mental state is not an element of a violation under this chapter.

(k) After due consideration of the evidence and arguments, the hearings officer shall determine whether the violation alleged in the citation has been proven and enter an order as follows:

(1) If the hearings officer determines that the violation has not been proven, a final order dismissing the citation shall be entered.

(2) If the hearings officer determines that the violation has been proven, the hearings officer shall enter an appropriate final order that sets forth both findings of fact and conclusions of law, the amount of the civil fine and costs imposed, instructions regarding payment, and the appeal rights of the cited person.

(3) A copy of the final order shall be served on the cited person, or on the cited person's attorney(s) of record, by regular mail with certificate of service from the hearings officer.

(l) An audio recording shall be made of the hearing unless waived by both parties. The recording or a written transcript shall be retained for at least 90 days following the hearing or final judgment on appeal, whichever is later.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 5; Ordinance No. 02-974, Sec. 1; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.140 Failure to Appear by Cited Person

A cited person fails to appear if he or she does not respond by the time specified on the citation or if he or she requests a hearing and does not appear at the time scheduled by the hearings officer. If the cited person fails to appear, the hearings officer shall review any evidence submitted to determine if Metro has established the violation by a preponderance of the evidence and shall enter an appropriate final order that includes instructions regarding payment and the process to appeal the decision. Where a cited person requests a hearing and fails to appear, the hearings officer may assess an additional fee not to exceed $50. A copy of the hearings officer's final order shall be served on the cited person using one of the methods of service described in Metro Code 5.09.070.

(Ordinance No. 94-557; Ordinance No. 94-581, Sec. 6; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.150 Review of Hearings Officer Decisions

(a) A motion to reconsider the final order of the hearings officer must be filed within 10 days of the original order. The hearings officer may reconsider the final order with or without further briefing or oral argument. If allowed, reconsideration shall result in reaffirmance, modification, or reversal. Filing a motion for reconsideration does not toll the period for filing an appeal in court.

(b) A cited person may appeal a final order by Writ of Review as provided in ORS 34.010 through 34.100.

(Ordinance No. 94-557; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.160 Collection of Civil Fines and Costs

(a) Fines and costs are payable upon receipt of an invoice from Metro pursuant to a written settlement or final order imposing fines and costs. Fines and costs under this chapter are a debt owing to Metro and may be collected in the same manner as any other debt.

(b) The Chief Operating Officer or designee may initiate appropriate legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the hearings officer.

(c) In addition to other remedies available in law or equity, when an order assessing civil fines and costs under this chapter becomes final by operation of law or on appeal and the amount of the fines or costs is not paid within 10 days after the order becomes final, the order may be recorded and enforced as provided in ORS 268.360(5).

(Ordinance No. 94-557; Ordinance No. 02-974, Sec. 1; Ordinance No. 06-1107; and Ordinance No. 13-1311.)

5.09.170 Administrative Policies and Procedures

The Chief Operating Officer or designee may establish policies and procedures to carry out this chapter.

(Ordinance No. 94-557; Ordinance No. 02-974, Sec. 1; and Ordinance No. 13-1311.)

5.09.180 Severability

If any section, subsection, paragraph, sentence, clause, phrase, or other portion of this chapter is found to be invalid or unconstitutional by a court of competent jurisdiction, that portion of the chapter shall be deemed separate and distinct, and the remainder of this chapter shall continue in full force and effect.

(Ordinance No. 94-557.)

5.09.190 Authority to Settle

The Chief Operating Officer or designee is authorized to enter into negotiations with the parties or their legal representatives involving any provision of this chapter for the collection of fines and costs, to negotiate a settlement, or both.

(Ordinance No. 13-1311.)

CHAPTER 5.10

REGIONAL SOLID WASTE MANAGEMENT PLAN

SECTION	TITLE
5.10.010	Definitions (Repealed Ord. 14-1331)
5.10.020	Authority, Jurisdiction, and Purpose
5.10.030	Adoption of RSWMP
5.10.040	Application of Chapter
5.10.050	RSWMP Requirements
5.10.060	RSWMP Amendments
5.10.070	Severability
5.10.080	Administrative Procedures
	Compliance Procedures
5.10.110	Conformity to the RSWMP
5.10.120	Compliance with the RSWMP
5.10.130	Extension of Compliance Deadline
5.10.140	Exception from Compliance
5.10.150	Review by Metro Council
5.10.160	Technical Assistance
	The Regional Service Standard
5.10.210	Purpose and Intent
5.10.220	Regional Service Standard
5.10.230	Regional Service Standard Elements
5.10.240	Alternative Program and Performance Standard
	Business Recycling Requirement
5.10.310	Purpose and Intent
5.10.320	Implementation Alternatives for Local Governments
5.10.330	Business Recycling Requirement Performance Standard
5.10.340	Metro Enforcement of Business Recycling Requirement
5.10.350	Metro Model Ordinance Required

(Ordinance No. 08-1183A; Ordinance No. 08-1200; and Ordinance No. 14-1331, Sec. 7.)

5.10.020 Authority, Jurisdiction, and Purpose

(a) Metro's solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.

(b) This chapter implements the RSWMP requirements. The RSWMP shall include the Regional Solid Waste Management Plan, including without limitation the waste reduction program.

(c) This chapter does not abridge or alter the rights of action by the State or by a person that exist in equity, common law, or other statutes.

(Ordinance No. 08-1183A.)

5.10.030 Adoption of RSWMP

Metro has adopted the RSWMP, copies of which are on file at Metro offices, and shall implement the RSWMP as required by this chapter.

(Ordinance No. 08-1183A.)

5.10.040 Application of Chapter

This chapter shall apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdiction.

(Ordinance No. 08-1183A.)

5.10.050 RSWMP Requirements

The RSWMP is a regional plan that contains requirements that are binding on local governments of the region as well as recommendations that are not binding. The RSWMP requirements are set forth in this chapter. This chapter ensures that local governments have a significant amount of flexibility as to how they meet requirements. Standard methods of compliance are included in the chapter, but these standard methods are not the only way a local government may show compliance. Performance standards also are included in most sections. If local governments demonstrate to Metro that they meet the performance standard, they have met the requirement of that section.

(Ordinance No. 08-1183A.)

5.10.060 RSWMP Amendments

(a) The Chief Operating Officer shall submit all proposed amendments to the RSWMP to the Council by ordinance for adoption.

(b) Once the Council adopts an amendment to the RSWMP, the Chief Operating Officer shall submit the amended RSWMP to the DEQ for approval. If the amendment is to the waste reduction program, the Chief Operating Officer shall submit the amended RSWMP to the DEQ for acceptance and approval.

(c) The Chief Operating Officer may correct technical mistakes discovered in the RSWMP administratively without petition, notice, or hearing.

(Ordinance No. 08-1183A.)

5.10.070 Severability

(a) The sections of this chapter shall be severable and any action by any state agency or judgment court of competent jurisdiction invalidating any section of this chapter shall not affect the validity of any other section.

(b) The sections of the RSWMP shall also be severable and shall be subject to the provisions of subsection (a) of this section.

(Ordinance No. 08-1183A.)

5.10.080 Administrative Procedures

(a) The Chief Operating Officer may issue administrative procedures governing the obligations under this chapter, including but not limited to procedures for the suspension of a material from the definition of standard recyclable materials and for additional requirements of a recycling education and promotion program.

(b) The Chief Operating Officer may issue administrative procedures to implement all provisions of this chapter.

(c) The Chief Operating Officer shall issue or substantially amend the administrative procedures for this chapter only after providing public notice and the opportunity to comment on the proposed language.

(d) The Chief Operating Officer may hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure if the Chief Operating Officer determines that there is sufficient public interest in any such proposal.

(Ordinance No. 08-1183A.)

Compliance Procedures

5.10.110 Conformity to the RSWMP

Local governments shall not adopt any ordinance, order, regulation, or contract affecting solid waste management that conflicts with the RSWMP requirements implemented by this chapter.

(Ordinance No. 08-1183A.)

5.10.120 Compliance with the RSWMP

(a) The purpose of this section is to establish a process for determining whether local government actions comply with the RSWMP requirements. The Council intends the process to be efficient and cost effective and to provide an opportunity for the Metro Council to interpret the requirements of the RSWMP. Where the terms "compliance" and "comply" appear in this chapter, the terms shall have the meaning given to "substantial compliance" in Section 5.10.010.

(b) Local government actions shall comply with the RSWMP requirements. The Chief Operating Officer shall notify local governments of the compliance date of all RSWMP requirements. On or before the compliance date, local governments shall certify in writing to the Chief Operating Officer that their local government actions comply with the RSWMP requirements.

(c) Commencing on November 1, 2010, and on November 1 each year thereafter, the Director shall submit a report to the Chief Operating Officer on local government action compliance with the RSWMP requirements for the Metro fiscal year ending the previous June 30. The report shall include an accounting of local government actions that do not comply with each requirement of the RSWMP. The report shall recommend action that would bring a local government into compliance with the RSWMP requirements and shall advise the local government whether it may seek an extension pursuant to Section 5.10.130 or an exception pursuant to Section 5.10.140. The report also shall include an evaluation of the implementation of this chapter and its effectiveness in helping achieve the RSWMP objectives.

(d) Commencing on or after November 1, 2010, and on or after November 1 each year thereafter, the Chief Operating Officer shall provide each local government with a letter

informing the local government whether its actions comply or do not comply with the RSWMP requirements. The Chief Operating Officer shall provide each local government that is not in compliance with the RSWMP requirements with the Director's report.

(e) A local government provided with a report shall respond to the report within 60 days from the date of the report. The response shall contain:

(1) An agreement to comply with the report recommendations;

(2) A request for an extension under Section 5.10.130; or

(3) A request for an exception under Section 5.10.140.

(f) Within 30 days of receiving the local government's response, the Chief Operating Officer shall:

(1) If the local government agrees to comply with the report recommendations, provide a letter to the local government describing the details of the actions required of the local government for compliance; or

(2) If the local government seeks an extension or exception, direct the local government to follow the procedures set forth in Section 5.10.130 or Section 5.10.140.

(g) If the local government fails to file a response or refuses to comply with the report recommendations, the Chief Operating Officer may proceed to Council review under Section 5.10.150. A local government may seek Council review under Section 5.10.150 of a report of noncompliance under this section.

(Ordinance No. 08-1183A.)

5.10.130 Extension of Compliance Deadline

(a) A local government may seek an extension of time for compliance with a RSWMP requirement by filing a written request for an extension with the Director.

(b) The Director may grant an extension of the compliance deadline if the local government's written request demonstrates that: (1) the local government is making progress toward accomplishment of its compliance with the RSWMP requirement; or (2) the local government has good cause for failure to meet the deadline for compliance.

(c) The Director may establish terms and conditions for the extension to ensure that compliance is achieved in a timely and orderly fashion and that local government actions during the extension do not undermine the ability of the region to implement the RSWMP. A term or condition shall relate to the requirement of the RSWMP to which the Director grants the extension. The Director shall incorporate the terms and conditions into the decision on the request for extension. The Director shall not grant more than two extensions of time and shall not extend the deadline for compliance for more than one year.

(d) The Director shall grant or deny the request for extension within 30 days of the date of the request and shall provide a copy of the decision to the local government.

(e) A local government may seek review of the Director's decision by filing a written request for review with the Chief Operating Officer within 30 days of the date of the Director's decision.

(f) The Chief Operating Officer shall consider a request for review without a public hearing and shall issue an order within 30 days of receiving the request for review. The Chief Operating Officer shall provide a copy of the order to the local government.

(g) The Chief Operating Officer's order regarding an extension is a final order and shall not be subject to Metro Code Chapter 2.05, Procedure for Contested Cases. A local government may appeal the order by filing a petition for writ of review.

(Ordinance No. 08-1183A.)

5.10.140 Exception from Compliance

(a) A local government may seek an exception from compliance with a RSWMP requirement by filing a written request for an exception with the Chief Operating Officer.

(b) The Chief Operating Officer shall prepare a report on the written request. The report shall recommend whether to grant or deny the exception and shall analyze whether:

(1) The exception and any similar exceptions will prevent the Metro region from achieving the RSWMP goals;

(2) The exception will reduce the ability of another local government to comply with the requirement; and

(3) The local government has adopted other measures more appropriate for the local government to achieve the intended result of the requirement.

(c) The Chief Operating Officer's report may establish terms and conditions for the exception to ensure that it does not undermine the ability of Metro to implement its responsibilities under the RSWMP. Any term or condition shall relate to the requirement of the RSWMP from which the local government seeks exception.

(d) The Chief Operating Officer shall issue the report within 60 days of the date of the request. The Chief Operating Officer shall provide a copy to the local government and shall file a written request for review and public hearing with the Council President.

(e) The Council President shall set the matter for a public hearing before the Council within 30 days of the date of the Chief Operating Officer's report. The Chief Operating Officer shall provide notice to the local government that includes the date and location of the hearing and shall publish the report at least 14 days before the public hearing.

(f) During the hearing the Council shall receive testimony on the Chief Operating Officer's report and shall allow any person to testify orally or in writing.

(g) The Council shall issue its order, with analysis and conclusions, not later than 30 days following the public hearing on the matter. The order shall be based upon the Chief Operating Officer's report and upon testimony at the public hearing. The order may rely upon the report for an analysis of the factors listed in subsection(b). The order shall address any testimony during the public hearing that takes exception to the report. The Chief Operating Officer shall provide a copy of the order to the local government.

(h) The order of the Metro Council is a final order that a local government may appeal by filing a petition for writ of review.

(Ordinance No. 08-1183A.)

5.10.150 Review by Metro Council

(a) A local government may seek review of (1) the letter and report of noncompliance provided by the Chief Operating Officer under Section 5.10.120; and (2) a decision that a local government does not meet a performance standard by filing a written request for review and public hearing with the Council President.

(b) The Chief Operating Officer may seek review by the Council of any local government action that does not comply with the RSWMP requirements, this chapter, or both by filing a written request for review and public hearing with the Council President. The Chief Operating Officer shall provide a copy of the request to the local government.

(c) The Chief Operating Officer shall consult with the local government and the Director before the Chief Operating Officer determines there is good cause for a public hearing under subsection (d).

(d) The Council President shall set the matter for a public hearing before the Council within 30 days of the date of the Chief Operating Officer or local government's request for review. The Chief Operating Officer shall provide notice to the local government that includes the date and location of the hearing.

(e) The Chief Operating Officer shall prepare a report and recommendation on the matter for consideration by the Metro Council. The Chief Operating Officer shall publish the report

at least 14 days before the public hearing and provide a copy to the local government.

(f) During the hearing the Council shall receive testimony on the Chief Operating Officer's report and shall allow any person to testify orally or in writing.

(g) If the Metro Council concludes that the local government action does not violate the RSWMP requirements or this chapter, the Council shall enter an order dismissing the matter. If the Council concludes that the local government action does violate the RSWMP requirements, this chapter, or both, the Council shall issue an order that identifies the noncompliance and directs changes in the local government action.

(h) The Council shall issue its order, with analysis and conclusions, no later than 30 days following the public hearing on the matter. The order shall be based upon the Chief Operating Officer's report and upon testimony at the public hearing. The order may rely upon the report for its findings and conclusions related to compliance with this chapter. The order shall address any testimony during the public hearing that takes exception to the report. The Chief Operating Officer shall provide a copy of the order to the local government.

(i) The order of the Metro Council is a final order that a local government may appeal by filing a petition for writ of review.

(Ordinance No. 08-1183A.)

5.10.160 Technical Assistance

The Chief Operating Officer shall encourage local governments to take advantage of the programs of technical and financial assistance provided by Metro to help achieve compliance with the requirements of this chapter.

(Ordinance No. 08-1183A.)

The Regional Service Standard

5.10.210 Purpose and Intent

Local governments shall adopt and implement the regional service standard or alternative program as required by the RSWMP and as specified in this chapter and the administrative procedures.

The regional service standard ensures a comprehensive and consistent level of recycling service for the region and assists the region in meeting state recovery goals.

(Ordinance No. 08-1183A.)

5.10.220 Regional Service Standard

(a) By January 1, 2009, local governments shall implement the regional service standard either by:

(1) Adopting the provisions of Metro Code Section 5.10.230(a) through (d); or

(2) Adopting an alternative program that meets the performance standard and that is approved by Metro in accordance with Metro Code Section 5.10.240.

(b) The local government shall provide information related to compliance with this requirement at the Director's request or as required by the administrative procedures.

(Ordinance No. 08-1183A.)

5.10.230 Regional Service Standard Elements

The following shall constitute the regional service standard under the RSWMP:

(a) For single-family residences, including duplexes, triplexes, and fourplexes, the local government shall:

(1) Ensure provision of at least one (1) recycling container to each residential customer;

(2) Ensure provision of weekly collection of all standard recyclable materials; and

(3) Ensure provision of a residential yard debris collection program that includes weekly on-route collection of yard debris for production of compost from each residential customer or equivalent on-route collection of yard debris for production of compost if granted approval for an alternative program under Metro Code Section 5.10.240.

(b) For multi-family residences, the local government shall ensure provision of regular collection of standard recyclable materials for each multi-family dwelling community having five (5) or more units.

(c) For businesses, the local government shall ensure provision of regular collection of standard recyclable materials.

(d) For education and outreach, the local government shall ensure provision of a recycling education and promotion program to all waste generators that supports the management of solid waste according to the waste reduction hierarchy as follows:

(1) For all waste generators:

A. Provide information regarding waste prevention, reusing, recycling, and composting; and

B. Participate in one community or media event per year to promote waste prevention, reuse, recycling, or composting.

(2) For single-family residences and businesses:

A. For existing customers, provide education information at least four (4) times a calendar year; and

B. For new customers, provide a packet of educational materials that contains information listing the materials collected, the schedule for collection, the proper method of preparing materials for collection, and an explanation of the reasons to recycle.

(3) For multi-family residences:

A. Provide waste reduction and recycling educational and promotional information designed for and directed toward the residents of multifamily dwellings as frequently as necessary to be effective in reaching new residents and reminding existing residents of the opportunity to recycle, including the types of materials

accepted and the proper preparation of the items; and

B. Provide waste reduction and recycling educational and promotional information designed for and directed toward multifamily property owners and managers at least annually.

(Ordinance No. 08-1183A.)

5.10.240 Alternative Program and Performance Standard

(a) A local government seeking alternative program approval shall submit an application for an alternative program to the Director that contains:

(1) A description of the existing program;

(2) A description of the proposed alternative program; and

(3) A comparison of the existing and alternative programs for type of materials collected, frequency of collection of material, and levels of recovery.

(b) A local government's alternative program shall perform at the same level or better as the regional service standard and shall meet the following performance standard:

(1) The alternative program shall provide for as much or more recovery of standard recyclable materials as recovered under the regional service standard;

(2) The alternative program shall ensure that the per capita use of recycling service is the same or more than the per capita use of recycling service under the regional service standard;

(3) The alternative program shall prevent waste generation at the same level or better than the waste generation prevented under the regional service standard;

(4) The alternative program shall provide education and outreach to promote the waste reduction

hierarchy and to encourage the separation of recyclables from waste; and

(5) The alternative program shall ensure that any innovations in the provision of recycling service are technologically and economically feasible.

(c) If the Director determines that the alternative program meets the performance standard, the Director shall approve the application. The Director may condition the approval on completion of a successful pilot program. If the Director determines that the alternative program does not meet the performance standard, the Director shall deny the application. The Director shall decide whether to approve or deny the application within 60 days of the date the Director received the application or, if the Director conditions approval on successful completion of a pilot program, within 60 days of the conclusion of the pilot program. The Director shall provide a copy of the decision to the local government.

(d) A local government may seek review of the Director's decision by filing a written request for review with the Chief Operating Officer within 30 days of the date of the Director's decision.

(e) The Chief Operating Officer shall consider a request for review without a public hearing and shall issue an order within 30 days of receiving the request for review. The Chief Operating Officer shall provide a copy of the order to the local government.

(f) A local government may seek Council review under Section 5.10.150 of the Chief Operating Officer's order regarding an alternative program under this section.

(g) This section does not prevent a local government from seeking an exception under Section 5.10.140.

(Ordinance No. 08-1183A.)

Business Recycling Requirement

5.10.310 Purpose and Intent

The business recycling requirement provides an opportunity for businesses to work with local governments to provide recycling education, to create a consistent standard throughout the Metro

region, and to increase recycling. A significant increase in business recycling will assist the Metro region in achieving waste reduction goals.

(Ordinance No. 08-1200.)

5.10.320 Implementation Alternatives for Local Governments

(a) By February 27, 2009, local governments shall comply with this title by implementing the business recycling requirement as follows:

(1) (a) Adopt the business recycling requirement model ordinance; or

(b) Demonstrate that existing local government ordinances comply with the performance standard in Section 5.10.330 and the intent of this title; and

(2) (a) Establish compliance with the business recycling requirement model ordinance or local government ordinance; or

(b) Enter into an intergovernmental agreement with Metro that provides for Metro to establish compliance for the local government.

(b) The local government shall provide information related to the local government's implementation of the business recycling requirement at the Director's request or as required by the administrative procedures.

(Ordinance No. 08-1200.)

5.10.330 Business Recycling Requirement Performance Standard

(a) The following shall constitute the business recycling requirement performance standard:

(1) Businesses shall source separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling;

(2) Businesses and business recycling service customers shall ensure the provision of recycling

containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and

(3) Businesses and business recycling service customers shall post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the Business must source separate for reuse or recycling and that provide recycling instructions.

(b) Local governments shall establish a method for ensuring compliance with the business recycling requirement.

(c) Local governments may exempt a business from some or all of the business recycling requirement if:

(1) The Business provides access to the local government for a site visit; and

(2) The local government determines during the site visit that the business cannot comply with the business recycling requirement.

(Ordinance No. 08-1200.)

5.10.340 Metro Enforcement of Business Recycling Requirement

Upon a request by a local government under Section 5.10.320 to enter into an intergovernmental agreement, Metro shall perform the local government function to ensure compliance with the Business Recycling Requirement as follows:

(a) Provide written notice to a business or business recycling service customer that does not comply with the recycling requirement. The notice of noncompliance shall describe the violation, provide an opportunity to cure the violation within the time specified in the notice, and offer assistance with compliance.

(b) Issue a citation to a business or business recycling service customer that does not cure a violation within the time specified in the notice of noncompliance. The citation shall provide an additional opportunity to cure the violation within the time specified in the citation and shall notify the business

or business recycling service customer that it may be subject to a fine.

(c) Assess a fine to a business or business recycling service customer that does not cure a violation within the time specified in the citation. The notice of assessment of fine shall include the information required by Metro Code Section 5.09.090. Metro shall serve the notice personally or by registered or certified mail. A business or business recycling service customer may contest an assessment by following the procedures set forth in Metro Code Section 5.09.130 and 5.09.150.

(Ordinance No. 08-1200.)

5.10.350 Metro Model Ordinance Required

Metro shall adopt a business recycling requirement model ordinance that includes a compliance element. The model ordinance shall represent one method of complying with the business recycling requirement. The model ordinance shall be advisory and local governments are not required to adopt the model ordinance, or any part thereof, to comply. Local governments that adopt the model ordinance in its entirety shall be deemed to have complied with the business recycling requirement.

(Ordinance No. 08-1200.)

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TITLE VI

COMMISSIONS

CHAPTER	TITLE
6.01	Metropolitan Exposition Recreation-Commission

CHAPTER 6.01

METROPOLITAN EXPOSITION-RECREATION COMMISSION

SECTIONS	TITLE
6.01.010	Purpose
6.01.020	Definitions
6.01.030	Commission Created
6.01.040	Powers
6.01.050	Budget and Accounts
6.01.060	Commission Meetings
6.01.070	Delegation
6.01.080	Filing and Effective Date of Commission Resolutions
6.01.090	Initial Charge to Commission (repealed Ord. 97-677B §3)
6.01.100	Commission Business Plans
6.01.110	Commission Relationship to Metro Council

6.01.010 Purpose

(a) This chapter establishes a metropolitan commission pursuant to Section 25(4) of the Metro Charter. The purpose of the Commission is to provide oversight and direction to the Chief Operating Officer for the management and operation of convention, trade and spectator facilities owned by Metro and such other facilities as the Metro Council may determine. Facilities assigned to the Commission may include other facilities owned by Metro or facilities that Metro has agreed to manage.

(b) The Metro Council intends and directs that such facilities be operated in a cost effective, independent, entrepreneurial and accountable manner so as to provide the greatest benefit to the residents of the Metro Area.

(c) This chapter sets forth the powers and duties of the Commission. This chapter delegates to the Commission certain authority held by the Metro Council under the Metro Charter.

(d) The Metro Council retains all authority not delegated including the authority to amend or repeal this chapter.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.; and Ordinance No. 09-1229, Sec. 1.)

6.01.020 Definitions

As used herein:

(a) Chief Operating Officer means the Metro Chief Operating Officer;

(b) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;

(c) "Council" means the Metro Council;

(d) "Councilor" means a member of the Council;

(e) "Council President" means the Council President of Metro;

(f) "Metro Area" means the territory within the Metro jurisdictional boundary.

(g) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter; and

(h) "MERC General Manager or General Manager" means the person designated by the Chief Operating Officer to hold such position. The Chief Operating Officer may delegate additional responsibilities to the General Manager.

(Ordinance No. 87-225, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.; and Ordinance No. 09-1221C; and Ordinance No. 09-1229, Sec. 1.)

6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) voting members and one Metro Councilor who shall serve ex-officio in a non-voting capacity. All members shall be residents of the Metro Area.

(a) The Council President will make all appointments.

(b) The Council President may reject a nomination. Appointments of all voting members are subject to confirmation by the Metro Council.

(c) All voting members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a voting member may serve until the successor is confirmed;

thereafter, upon the expiration of a term, the position shall be considered vacant until a member is appointed or re-appointed and confirmed.

(d) Nomination Process for Voting Members. The Council President will accept nominations to the Commission as follows:

(1) The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one (1) candidate. The candidates must be residents of the Metro Area and nominating county.

(2) The City Council of the City of Portland shall nominate one (1) candidate for each of two (2) positions. The candidates must be residents of the Metro Area and the City of Portland.

(3) Two (2) nominees shall be at the sole discretion of the Council President. The candidates must be residents of the Metro Area.

(e) Appointment Process for Voting Members.

(1) For those positions on the Commission which are subject to nomination by a local governmental body, the Council President will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro Council for confirmation. If the Council President fails to concur with any candidate so nominated by a local government, the Council President shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the Council for confirmation as a result of this process is rejected by the Council, the Council President shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President to the Council for confirmation and has been confirmed.

(2) If the Council fails to confirm an appointment made at the sole discretion of the Council President, the Council President may submit the name of another person for confirmation by the Council.

(f) A vacancy shall occur from the death, resignation, failure to continue residency within the Metro Area and in the case of voting members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any voting member or from the removal of a voting member by the Council President, subject to approval of the removal by a majority of the members of the Council.

(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of voting members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve as a voting member.

(i) The Commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the Commission determines appropriate. However, the Commission may not delegate powers and duties as set out in this chapter to an individual Commissioner or a committee.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 89-325, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; and Ordinance No. 09-1229, Sec. 1.)

6.01.040 Powers

(a) The Commission is responsible for oversight of all facilities for which it is responsible. In exercising this oversight it has power to direct and control the authority of the Chief Operating Officer to enter into contracts; and to establish policies, including business plans, marketing plans, and strategic plans, for the Chief Operating Officer to follow regarding the operation and marketing of the facilities. The Commission establishes and approves all charges for the rent or use of the facilities and may delegate authority to the Chief Operating Officer to establish rents and charges and negotiate and enter into agreements for the rent or use of the facilities subject to policies established by the Commission. The Commission may authorize the Chief Operating Officer to purchase or lease real property that the Commission finds necessary for its purposes.

(b) The Commission shall advise the Chief Operating Officer regarding the designation and all performance reviews of the General Manager. The General Manager shall provide support to the Commission and shall be responsible for acting on behalf of the Chief Operating Officer on all matters entrusted to the General Manager. The Commission advises the Chief Operating Officer and the General Manager regarding the preparation of the annual budget for the Commission prior to the adoption of a proposed budget by the Commission as set forth in Section 6.01.050 as well as on proposals to acquire or dispose of real property.

(c) The Commission advises the Metro Council on the adoption of the annual budget and on the Metro Council's adoption of policies, goals or objectives for the facilities or the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1; and Ordinance No. 09-1221C; and Ordinance No. 09-1229, Sec. 1.)

6.01.050 Budget and Accounts

(a) General Requirements. The Commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The Commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The Commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the Commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The Commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The Commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the

submitted budget and submit the Commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the Commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the Commission. The Commission's budget shall be subject to review and approval by the Council. The Council shall make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the Commission's budget shall consist of one Commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the Commission. Once the Commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5; and Ordinance No. 09-1229, Sec. 1.)

6.01.060 Commission Meetings

All meetings of the Commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The Commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all Commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; and Ordinance No. 09-1229, Sec. 1.)

6.01.070 Delegation

The Commission may delegate to the Chief Operating Officer any of the power and authority of the Commission subject to those limitations the Commission deems appropriate. Any delegation shall be by resolution of the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 09-1229, Sec. 1.)

6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the Commission shall file a copy of the resolution with the Chief Operating Officer, or such other officer as the Council may designate, who shall maintain a special record of the Commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Chief Operating Officer shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the Commission shall be effective upon adoption or at such other time as specified by the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1; Ordinance No. 09-1229, Sec. 1; and Ordinance No. 11-1251.)

6.01.100 Commission Business Plans

(a) The Commission shall prepare business plans for each of its facilities and shall update those plans as needed. The Commission shall provide all Metro elected officials with copies of its business plans.

(b) The Commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The Commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the Commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the Commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the Commission. The Commission shall include in its quarterly reports to the Council progress reports on the Commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; and Ordinance No. 09-1229, Sec. 1.)

6.01.110 Commission Relationship to Metro Council

(a) The Commission shall meet at least once annually in a joint meeting with the Council to recommend policies and to

consult on the operations of the facilities. The Commission shall adopt policies consistent with the policies adopted by the Council.

(b) The Metro Councilor member who serves as the ex-officio member, with the General Manager and the Chief Operating Officer shall regularly report to the Council the activities of the Commission.

(c) The Metro Council President and Metro Council shall consult with the Commission regarding the employment of the Chief Operating Officer, including but not limited to, any review of the Chief Operating Officer's performance.

(Ordinance No. 09-1229, Sec. 1.)

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TITLE VII

FINANCE*

CHAPTER	TITLE
7.01	Excise Taxes
7.02	Financing Powers (former Chapter 8.01)
7.03	Investment Policy (former Chapter 2.06)
7.04	Construction Excise Tax

* Formerly Title VII, Excise Taxes. Ordinance No. 02-976 renamed Title VII and incorporated Chapters 7.02 (formerly 8.01) and 7.03 (formerly 2.06).

CHAPTER 7.01

EXCISE TAXES

SECTION	TITLE
7.01.010	Definitions
7.01.020	Tax Imposed
7.01.022	Consumer Price Index Adjustment
7.01.023	Additional Excise Tax (Repealed Ord. 10-1239 § 2)
7.01.024	Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs (Repealed Ord. 04-1037 § 1)
7.01.025	Collection of Tax by Metro
7.01.028	Budgeting of Excess Revenue (Repealed Ord. 08-1187A § 3)
7.01.030	Collection of Tax by Operator; Rules for Collection
7.01.040	Operator's Duties
7.01.050	Exemptions
7.01.060	Registration of Operator; Form and Contents; Execution; Certification of Authority.
7.01.070	Due Date; Returns and Payments
7.01.080	Penalties and Finance Charges
7.01.090	Deficiency Determination; Fraud, Evasion, Operator Delay
7.01.100	Hearings, Contested Cases
7.01.110	Security for Collection of Tax
7.01.120	Refunds
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7.01.160	Effective Date and Effect of Initiative Passage (Repealed Ord. 07-1147B § 14)
7.01.170	Council Review of Ordinance Effect (Repealed Ord. 07-1147B § 14)
7.01.180	Excise Tax Credit Program Review (Repealed Ord. 07-1147B, § 15)
7.01.190	Administrative Procedures for Excise Tax Credits (Repealed Ord. 07-1147B, § 15)

7.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

(b) "Cash basis accounting" means revenues are recorded when cash is received.

(c) "Cleanup Material Contaminated By Hazardous Substances" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(d) "Inert" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(e) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to Metro or to an operator or by an operator to Metro.

(f) "Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

(g) "Metro facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro. Metro facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro.

(h) "Metro regional park" means any park or park facility, equipment, system, function, service or improvement operated or managed by Metro, including but not limited to Oxbow Regional Park, Blue Lake Regional Park, Smith and Bybee Wetlands Natural Area, Howell Territorial Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, and Sauvie Island Boat Ramp. For purposes of this chapter, "Metro regional park" does not include Glendoveer Golf Course.

(i) "Operator" means a person other than Metro who receives compensation from any source arising out of the use of a Metro facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

(j) "Payment" means the consideration charged, whether or not received by Metro or an operator, for the use of a Metro facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(k) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock

company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(l) "Processing Residual" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(m) "Recoverable solid waste" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(n) "Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

(o) "Solid waste system facility" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(p) "Source Separate" or "Source Separated" or "Source Separation" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(q) "Source-separated recyclable material" or "Source-separated recyclables" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(r) "Tax" means the tax imposed in the amount established in Section 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

(s) "Useful material" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

(t) "User" means any person who pays compensation for the use of a Metro facility or receives a product or service from a Metro facility subject to the payment of compensation.

(Ordinance No. 90-333A, Sec. 2. Ordinance No. 92-464, Sec. 1; Ordinance No. 94-549B, Sec. 2; Ordinance No. 00-857B, Sec. 1; Ordinance No. 02-976, Sec. 1; Ordinance No. 05-1091A, Sec. 1; Ordinance No. 12-1277, Sec. 7; and Ordinance 14-1331, Sec. 8.)

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user, except persons subject to the tax provided in subsection 7.01.020(c), shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use

is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) Except as provided in Metro Code Section 7.01.050, each person who disposes of solid waste at a solid waste system facility shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste disposed exclusive of recoverable solid waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the person to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The person shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the person to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2010, the tax rate imposed and calculated under subsections (c) through (f) of this section shall be sufficient to generate net excise tax revenue of $11,370,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) recoverable solid waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2014-15, and each fiscal year thereafter, the rate determined by this subsection shall be effective on the first day of each fiscal year unless another effective date is adopted by the Metro Council.

(2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be $1.00.

(f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

(1) For the twelve (12) month period ending the previous December 31, the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and

(2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if a Regional Recovery Rate of 58 percent had been met.

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(Ordinance No. 90-333A, Section. Amended by Ordinance No. 92-464, Sec. 1; Ordinance No. 93-484A, Sec. 1; Ordinance No. 94-549B, Sec. 2; Ordinance No. 96-642A, Sec. 1; Ordinance No. 97-681B, Sec. 10; Ordinance No. 98-767, Sec. 7; Ordinance No. 00-857B, Sec. 2; Ordinance No. 00-876A, Sec. 4; Ordinance

No. 02-939A, Sec. 1; Ordinance No. 02-950B, Sec. 1; Ordinance No. 02-976, Sec. 1; Ordinance No. 03-1020, Sec. 1; Ordinance No. 06-1116, Sec. 1; Ordinance No. 07-1147B, Sec. 12; Ordinance No. 08-1187A, Sec. 1; Ordinance No. 07-1147B, Secs. 12 and 15; Ordinance No. 10-1239, Sec. 1; Ordinance No. 12-1277, Sec. 8 and Ordinance No. 14-1323, Sec. 7.)

7.01.022 Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, 2003, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) for the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland–Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate.

(Ordinance No. 00-857B, Secs. 3-4. Amended by Ordinance No. 02-939A, Sec. 6; and Ordinance No. 02-976, Sec. 1.)

(7.01.023 Additional Excise Tax. Repealed Ord. 10-1239 § 2)

(7.01.024 Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs. Repealed Ord. 04-1037 § 1)

7.01.025 Collection of Tax by Metro

(a) Metro shall allocate from all payments made directly to Metro by any user the amount of the tax provided for in Section 7.01.020.

(b) Unless stated separately on any request for payment or charge imposed or established by Metro the excise tax shall be presumed to be included in the amount imposed or established by Metro so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to Metro plus the excise tax at the rate established herein. To the extent necessary to give effect to this provision, all rates and charges established by Metro and in effect on the effective date of this chapter shall be deemed decreased by such percentage amount so that after such date the amount of the rate or charge together with the amount of the excise tax provided for in Section 7.01.020 shall be equal to the previously established rate or charge. Thereafter rates and charges shall be subject to amendment as provided by law.

(c) In the case of installment payments paid by the user to Metro a proportionate share of the tax shall be deemed paid by the user with each installment.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

(7.01.028 Budgeting of Excess Revenue. Repealed Ord. 08-1187A § 3)

7.01.030 Collection of Tax by Operator; Rules for Collection

(a) Every operator, unless specifically exempted under the terms of this chapter, shall collect a tax from users as provided for in Section 7.01.020.

(b) The operator shall report the tax to Metro consistent with the operator's basis of accounting, cash or accrual, except in the case of an operator of a solid waste facility. Solid waste facility operators shall report accrued revenue and excise tax calculated based upon loads or tons deposited at the site at the time of receipt of waste.

(c) For the purpose of reporting the tax owed to Metro and notwithstanding the provisions of Section 7.01.040, the tax shall be presumed to be included in the amount imposed by the operator so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the operator plus the excise tax owed to Metro at the rate established herein.

(d) Metro shall provide the operator with a blank return and instructions that shall be used by the operator to report the excise tax owing to Metro. The amount of excise tax due shall be paid when the return is filed as provided for in Section 7.01.070.

(e) There is no liability for excise taxes on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Excise taxes may not be deemed uncollectible unless the underlying account is also uncollectible. If the taxes have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the taxes shall be paid with the return.

(f) Installment payments of tax paid by the operator to Metro shall be applied first to finance charges and penalties and then to the oldest delinquent taxes.

(g) The Chief Operating Officer shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Chief Operating Officer shall give public notice of intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Code to violate rules and regulations duly adopted by the Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464; Sec. 1; Ordinance No. 93-509, Sec. 4; and Ordinance No. 02-976, Sec. 1.)

7.01.040 Operator's Duties

(a) Each operator shall collect the tax imposed by this chapter at the same time as payment is collected from every user. The amount of tax shall be separately stated upon the operator's records, and any receipt or invoice rendered by the operator.

(b) Each operator shall file a return in accordance with the terms provided for in Section 7.01.070.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464, Sec. 1.)

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

(1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the state of Oregon.

(2) Persons who are users and operators of the Portland Center for the Performing Arts.

(3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator

is under any contractual obligation related thereto.

(4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.

(5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metropolitan Exposition and Recreation Commission (Metro ERC) facility, or use of the Oregon Zoo.

(6) Users of the following facilities:

(A) Facilities that are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a).

(B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances.

(C) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.

(7) Persons making payments to Metro for the following purposes:

(A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor’s name or logo will be used in connection with a district facility’s goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to

sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.

(B) Payments for advertising at Metro facilities and Metro ERC facilities.

(C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program.

(D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects.

(E) Payments that entitle a person to admission to a fundraising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo.

(F) Payments that entitle a person to admission to a special fundraising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo.

(8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.

(9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms,

specified in the Metro certificate, license or franchise.

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(11) Persons making the following payments:

(A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator.

(B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator.

(C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.

(D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

(12) Persons making the following payments:

(A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park.

(B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro.

(C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.

(D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

(13) Persons, users or operators making payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall not be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

(14) Persons, users or operators making payments received by Metro from any use, parking or other revenue generator at a Metro regional park.

(15) Persons, users or operators making payments received by Metro for any use, lease, parking or any other revenue generator at the Mero Regional Center and its adjacent parking structure.

(16) Persons, users or operators making payments received by Metro for any service, product or other revenue generator by the Research Center.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any

operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

(Ordinance No. 90-333A. Amended by Ordinance No. 90-355, Sec. 2; Ordinance No. 95-590, Sec. 1; Ordinance No. 96-634, Sec. 3; Ordinance No. 98-767, Sec. 8; Ordinance No. 00-857B, Sec. 7; Ordinance No. 02-976, Sec. 1; Ordinance No. 03-994A, Sec. 3; Ordinance No. 03-1020, Sec. 2; Ordinance No. 05-1091A, Sec. 2; Ordinance No. 06-1127, Sec. 1; Ordinance No. 08-1187A, Sec. 4; and Ordinance No. 16-1372, Sec. 3.)

7.01.060 Registration of Operator; Form and Contents; Execution; Certification of Authority

(a) Every person engaging or about to engage in business as an operator in Metro shall register with the Chief Operating Officer on a form provided by the Chief Operating Officer. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his/her place of business and such other information to facilitate the collection of the tax as the Chief Operating Officer may require. The registration shall be signed by the operator.

(b) The Chief Operating Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from users, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Chief Operating Officer upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all users.

(c) Said certificate shall, among other things, state the following:

(1) The name of the operator;

(2) The address of the facility;

(3) The date upon which the certificate was issued; and

(4) "This Excise Tax Registration Certificate signifies that the person named has fulfilled the requirements of the Excise Tax Chapter of the Code of Metro for the purpose of collecting and remitting the excise tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a facility without strictly complying with all local applicable laws. This certificate does not constitute a permit or a franchise."

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.01.070 Due Date; Returns and Payments

(a) The tax shall be collected from the operator by Metro as provided for in Section 7.01.030. All amounts of such taxes reported by any operator are due and payable to Metro on the 15th day of each month for the preceding month, and are delinquent if not received by Metro as specified in subsection (d) of this section by the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows. The initial return under this chapter may be for less than a full month preceding the due date. Thereafter, returns shall be made for the applicable monthly period.

(b) On or before the 15th day of the month following each month of operation of a Metro facility, a return for the preceding month's tax shall be filed with the Chief Operating Officer. The return shall be filed in such form as the Chief Operating Officer may prescribe by every operator liable for payment of tax.

(c) Returns shall show the amount of tax due for the related period. The Chief Operating Officer may require returns to show the total receipts upon which tax was collected or otherwise due, gross receipts of the operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of receipts exempt, if any.

(d) The person required to file the return shall deliver the return, together with the tax due, to the Metro Administration Services Department of Finance and Management Information. Payment is considered to be delinquent if not received by Metro on or before the due date, by personal delivery to the Metro Administration Services Department of

Finance and Management information during business hours or, if delivered by mail, by receipt in Metro's mail room.

(e) The Chief Operating Officer, if deemed necessary in order to ensure payment or facilitate collection by Metro of the amount of taxes in any individual case, may require returns and payment of the amount of taxes more frequently than monthly periods.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464, Sec. 1; Ordinance No. 93-509, Sec. 5; and Ordinance No. 02-976, Sec. 1.)

7.01.080 Penalties and Finance Charges

(a) Fraud. If the Chief Operating Officer determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.

(b) Finance Charges. In addition to any penalties imposed, a finance charge of 1.5 percent shall be assessed on all delinquent taxes required to be remitted by an operator under this chapter. Finance charges shall be assessed on the 15th day of the month following the month in which taxes are due, and on the 15th day of each month thereafter, until paid. Finance charges will be assessed only on unpaid delinquent balances and penalties, and not on previously assessed finance charges, and will continue to be assessed on negotiated repayment schedules.

(c) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties and finance charges herein stated, provided, however, the operator may petition the Chief Operating Officer for waiver and refund of the penalties and finance charges or any portion thereof and the Chief Operating Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalties or finance charges or any portion thereof.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 93-509, Sec. 6; Ordinance No. 94-533; Sec. 2; and Ordinance No. 02-976, Sec. 1.)

7.01.090 Deficiency Determination; Fraud, Evasion, Operator Delay

(a) Deficiency Determinations. If the Chief Operating Officer determines that the results are incorrect, it may compute and determine the amount required to be paid on the

basis of the facts contained in the return or returns, or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 7.01.080.

(1) In making a determination the Chief Operating Officer may offset overpayment, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.01.080.

(2) The Chief Operating Officer shall give to the operator a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Chief Operating Officer. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(3) Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.

(4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(b) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said

tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Chief Operating Officer shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the Chief Operating Officer has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Chief Operating Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Chief Operating Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(c) Operator Delay. If the Chief Operating Officer believes that the collection of any tax or any amount of tax required to be collected and paid to Metro will be jeopardized by delay, or if any determination will be jeopardized by delay, the Chief Operating Officer shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Chief Operating Officer after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.01.100 Hearings, Contested Cases

(a) Any person against whom a determination is made under Section 7.01.090 or any person directly interested may request a hearing on the matter in contest and request redemption and refund within the time required in Section 7.01.090. The determination becomes final at the expiration of the allowable time and no hearing may be requested thereafter. Hearings shall

be conducted as provided for in Chapter 2.05 except that the deadline for requesting a hearing shall be as provided for herein.

(b) No request for a hearing and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

(Ordinance No. 90-333A, Sec. 2.)

7.01.110 Security for Collection of Tax

The Chief Operating Officer, whenever deemed necessary to ensure compliance with this chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the Chief Operating Officer may determine. The amount of the security shall be fixed by the Chief Operating Officer but shall not be greater than twice the operator's estimated average liability for the period for which he/she files returns, determined in such manner as the Chief Operating Officer deems proper. The amount of the security may be increased or decreased by the Chief Operating Officer subject to the limitation herein provided.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.01.120 Refunds

(a) Refunds by District to Operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously collected or received by the Chief Operating Officer under this chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment. The claim shall be made on forms provided by the Chief Operating Officer. If the claim is approved by the Chief Operating Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.

(b) Refunds by Metro to Users. Whenever the tax required by this chapter has been collected by Metro or by an operator, and deposited by the operator with the Chief Operating Officer, and it is later determined that the tax was erroneously collected or received by the Chief Operating Officer, it may be refunded by the Chief Operating Officer to the user, provided a verified claim in writing therefore, stating the specific reason

on which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.01.130 Administration

(a) Records Required From Operator, et cetera; Form. Every operator shall keep records of all sales and transactions. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.

(b) Examination of Records; Investigations. The Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, may examine during normal business hours the books, papers and accounting records relating to any operator, after notification to the operator liable for the collection and payment of the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(c) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Chief Operating Officer may cause the Metro Attorney to bring an action in the courts of this state, or any other state, or of the United States in the name of Metro to collect the amount delinquent together with penalties and interest.

(d) Confidential Financial Information. Except as otherwise required by law, it shall be unlawful for the Chief Operating Officer, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Chief Operating Officer under the terms of this chapter. Nothing in this subsection shall be construed to prohibit:

(1) The disclosure to, or the examination of, financial records by Metro officials, employees or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter; or

(2) The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of excise taxes, penalties, or interest, after filing of a written

request by the taxpayer or his/her authorized representative and approval of the request by the Chief Operating Officer; or

(3) The disclosure of the names and addresses of any persons to whom excise tax registration certificates have been issued; or

(4) The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or

(5) The disclosure of financial information to the office of the Metro Attorney, to the extent the Chief Operating Officer deems disclosure or access necessary for the performance of the duties of advising or representing the Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.01.150 Violations

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Chief Operating Officer or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter. The Chief Operating Officer may impose a civil penalty of up to $500 for each violation of this chapter. A violation includes, but is not limited to:

(a) Failure to file any required tax payment and report, including any penalties and interest, within 60 days of the due date;

(b) Filing a false or fraudulent report;

(c) Failure to register a facility with the Chief Operating Officer as described in Section 7.01.060;

(d) Failure to maintain a separate account for the excise tax collected.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

(7.01.160 Effective Date and Effect of Initiative Passage. Repealed Ord. 07-1147B § 14)

(7.01.170 Council Review of Ordinance Effect. Repealed Ord. 07-1147B § 14)

(7.01.180 Excise Tax Credit Program Review. Repealed Ord. 07-1147B, § 15)

(7.01.190 Administrative Procedures for Excise Tax Credits. Repealed Ord. 07-1147B, § 15)

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CHAPTER 7.02

FINANCING POWERS

SECTIONS	TITLE
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7.02.010 Definitions

Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this chapter of the Metro Code, the following terms shall have the respective meanings set forth in this section 7.02.010.

(a) "Authorizing action" means a resolution (or, if so determined by Council as provided in Section 7.02.110), an ordinance duly adopted by the Council for the purpose of:

(1) Authorizing the issuance and sale of a series of bonds;

(2) Authorizing any credit facility or financial enhancement product and any related agreements deemed necessary, appropriate or beneficial in connection with any bonds; or

(3) Establishing a comprehensive plan for the Bond financing of various systems, facilities and operations of Metro.

(b) "Bond measure" shall mean a ballot measure submitted by the Council to the electors of Metro as provided in Section 7.02.020 of the Metro Code for the purpose of requesting elector

authorization to issue general obligation bonds for any lawful purpose.

(c) "Bonds" means any obligations issued or incurred by Metro in the exercise of its Charter borrowing and financing powers as evidences of indebtedness for money borrowed or for the forbearance of money regardless of how such obligations may be designated, including but not limited to revenue bonds, general obligation bonds, limited tax general obligation bonds, lease purchase agreements, credit agreements, notes, warrants, commercial paper, any other evidences of indebtedness authorized to be issued by the Metro Council in accordance with the terms of the Charter and the Metro Code, and refunding bonds.

(d) "Charter" means the 1992 Metro Charter approved by the electors of Metro on November 2, 1992 and effective on January 1, 1993, as the same may be amended from time to time in accordance with its terms.

(d) "Council" means the Metro Council.

(e) "Credit agreement" means any loan agreement, line of credit or other similar lending arrangement (howsoever designate) in which one or more financial institutions or any other persons or entities agrees to loan funds to Metro.

(f) "Credit facility" means any letter of credit, line of credit, surety bond, municipal bond insurance policy or other facility or device provided by a person or entity other than Metro for the purpose of enhancing the creditworthiness or marketability of any Bonds.

(g) "Financial enhancement product" means any instrument, arrangement or agreement relating to any bonds that Council determines is in the interest of Metro to acquire or enter into in order to provide a reasonable hedge against, or eliminate or reduce Metro's exposure to, perceived risks, generate additional cash or savings, or otherwise provide Metro with potential or assured benefits in connection with or relating to any bonds, including but not limited to: interest rate or currency exchange agreements; insurance agreements; forward purchase contracts; conversion agreements; futures contracts; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates or other indices; interest rate floors, caps or collars; and agreements to exercise at a future date, or to refrain from exercising, specified rights of Metro with respect to its bonds (including but not limited to redemption rights or the right to refund outstanding bonds), including the exercise or non-exercise of any such right at the direction or option of a third party.

(h) "General Obligation Bond" means any bond constituting a full faith and credit obligation of Metro payable from ad valorem property taxes that may be levied and collected in an amount sufficient to pay when due all amounts owing on such bond without limitation as to the rate or amount of such taxes by virtue of any constitutional or statutory tax limitation provision (including but not limited to Article XI, Section 11, and Article XI, Section 11b, of the Oregon Constitution).

(i) "Lease purchase agreements" means any lease purchase agreement, installment purchase agreement or other similar financing arrangement or instrument entered into for the purpose of financing the acquisition by Metro of the property subject to such agreement, arrangement or instrument, but not including any true lease or similar arrangement wherein Metro does not obtain an equity interest in the property subject to such lease or arrangement.

(j) "Limited Tax General Obligation Bond" means any bond constituting a full faith and credit obligation of Metro payable from ad valorem property taxes that may be levied and collected subject to the limitations on the rate or amount of such taxes imposed by virtue of any applicable constitutional or statutory tax limitation provision (including but not limited to Article XI, Section 11, or Article XI, Section 11b, of the Oregon Constitution).

(k) "Obligations" means:

(1) Bonds; and

(2) Metro's obligations under or with respect to any credit facility or financial enhancement product.

(l) "Property" means any tangible or intangible real or personal property of every type and description, and any and all interests in such property.

(m) "Refunding bonds" means any bonds issued for the purpose of refunding, whether at or in advance of maturity, any bond or other obligations of Metro.

(n) "Revenue bond" means any bond (including any special obligation bond as such term is used in the Charter) payable from or secured by a pledge of and a lien on any revenues but which does not constitute a general obligation bond.

(o) "Revenues" means all taxes (including but not limited to any excise taxes, ad valorem property taxes and other taxes),

fees, tolls, user charges, rates, tariffs, royalties, assessments, rents, gifts, grants and all other receipts, payments and income (including but not limited to investment income) of whatever kind or nature levied, imposed, received or generated by Metro.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.020 General Obligation Bonds

(a) Submission of Bond Measure to Electors. The Council may from time to time submit to the electors of Metro a bond measure to be voted upon at any general or special election. A bond measure shall be submitted to the electors pursuant to a resolution duly adopted by Council and shall be in such form as may be required under applicable law. More than one bond measure may be submitted to the electors for consideration at a single election.

(b) Issuance of General Obligation Bonds. At any time after a bond measure has been approved by the affirmative vote of a majority of the electors voting thereon, Metro may proceed to issue the general obligation bonds authorized in such bond measure, which general obligation bonds may be issued from time to time in one or more series provided that the aggregate amount of all series originally issued under a particular bond measure (exclusive of refunding bonds issued to refund and replace outstanding general obligation bonds in order to realize a debt service savings) does not exceed the amount authorized by the bond measure. All general obligation bonds shall be issued pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code.

(c) Levy of Taxes; Payment from Other Funds. All general obligation bonds issued by Metro shall be secured by the full faith and credit and ad valorem taxing powers of Metro. Metro shall annually levy a direct ad valorem tax upon all of the taxable property within Metro's jurisdictional boundaries in an amount which, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes and all other monies reasonably expected to be available and used for the payment of debt service on outstanding general obligation bonds, shall be sufficient to pay when due the principal of and interest on all issued and outstanding general obligation bonds. The ad valorem taxes to be levied by Metro for the purpose of paying when due the principal of and interest on all issued and outstanding general obligation bonds shall be levied and collected outside of, and in addition to, any ad valorem taxes levied and collected by Metro within any voter approved tax base,

shall not be subject to the limitations imposed by Article XI, Section 11b, of the Oregon Constitution, and shall be levied in an amount sufficient to pay when due such general obligation bonds without regard or limit as to the rate or amount of such ad valorem taxes.

In the authorizing action under which a particular series of general obligation bonds is issued, Metro may provide that such general obligation bonds shall also be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). In addition to the payment of any general obligation bonds from the ad valorem property taxes levied and collected for such purpose as provided in the preceding paragraph, Metro may pay any amounts owing under any general obligation bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence.

(d) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of general obligation bonds is issued, Metro may:

(1) Pledge as additional security for such general obligation bonds all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such general obligation bonds.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.030 Limited Tax General Obligation Bonds

(a) Issuance of Limited Tax General Obligation Bonds. Metro may issue from time to time limited tax general obligation bonds for such purposes as are determined by Council to be necessary or appropriate to carry out the functions, duties and operations of Metro. All limited tax general obligation bonds shall be issued pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code.

(b) Payment from Other Funds. In the authorizing action under which a particular series of limited tax general obligation bonds is issued, Metro may provide that such limited tax general obligation bonds shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such

revenues or portions thereof as may have theretofore been created). In addition to the payment of any limited tax general obligation bonds from the ad valorem property taxes levied and collected or otherwise pledged or available to be used for such purpose, Metro may pay any amounts owing under any limited tax general obligation bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any limited tax general obligation bonds from any revenues not specifically pledged thereto or from which such limited tax general obligation bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of limited tax general obligation bonds is issued, Metro may:

(1) Pledge as additional security for such limited tax general obligation bonds all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such limited tax general obligation bonds.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.040 Revenue Bonds

(a) Issuance of Revenue Bonds. In accordance with Section 10 of the Metro Charter, Metro may issue from time to time revenue bonds for such purposes as are determined by Council to be necessary or appropriate to carry out the functions, duties and operations of Metro. Metro may issue revenue bonds for the purpose of financing such property as Council shall determine is necessary or desirable in order to carry out or assist or advance the carrying out of Metro's function, duties and operations regardless of whether such property is to be owned by Metro or any other public or private agency or person and regardless of whether such property is to be located within or without the jurisdictional boundaries of Metro. In connection with the issuance of revenue bonds to finance any property which is to be owned by any other public or private agency or person, Metro may enter into a lease purchase, installment sale or loan agreement with such public or private agency or person providing for lease

purchase, installment sale or loan payments which, together with other amounts pledged for such purpose, shall be sufficient to pay when due the principal of, premium (if any) and interest on such revenue bonds. All revenue bonds shall be issued pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code. Prior approval of the electors of Metro shall not be required as a condition precedent to the issuance of any revenue bonds under the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of revenue bonds is issued, Metro may provide that such revenue bonds shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any revenue bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any revenue bonds from any revenues not specifically pledged thereto or from which such revenue bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of revenue bonds is issued, Metro may:

(1) Pledge as additional security for such revenue bonds all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such revenue bonds.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1; Ordinance 13-1317, Sec. 1)

7.02.050 Lease Purchase Agreements and Credit Agreements

(a) Entering into Lease Purchase Agreements and Credit Agreements. Metro may from time to time enter into lease purchase agreements and Credit agreements for such purposes and term of years as determined by Council to be necessary or appropriate in order to carry out the functions, duties and operations of Metro. All lease purchase agreements and credit agreements shall be entered into pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code. In connection with any lease purchase agreement or credit agreement,

Metro may authorize the issuance and sale of certificates of participation in the lease purchase payments or other payment obligations of Metro under such lease purchase agreement or credit agreement.

(b) Payment from Other Funds. In the authorizing action under which a particular lease purchase agreement or credit agreement is authorized, Metro may provide that such lease purchase agreements shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any lease purchase agreement or credit agreement from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any lease purchase agreement or credit agreement from any revenues not specifically pledged thereto or from which the amounts owing under such lease purchase agreement or credit agreement have not been specifically made payable.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular lease purchase agreement or credit agreement is entered into, Metro may:

(1) Pledge as additional security for any amounts owing under such lease purchase agreement or credit agreement all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of the amounts owing under such lease purchase agreement or credit agreement.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.060 Notes, Warrants and Commercial Paper

(a) Issuance of Notes, Warrants and Commercial Paper. Metro may from time to time issue notes, warrants, commercial paper or other similar obligations for such purposes as are determined by Council to be necessary or appropriate in order to carry out the functions, duties and operations of Metro, including but not limited to the following purposes:

(1) To avoid cash flow deficits while awaiting receipt of any revenues;

(2) To provide interim financing for property to be acquired or constructed by Metro;

(3) To provide needed working capital; or

(4) To refund obligations authorized under this section or any other bonds. All notes, warrants, commercial paper or other similar obligations shall be issued pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of notes, warrants, commercial paper or other similar obligations are issued, Metro may provide that such obligations shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any notes, warrants, commercial paper or other similar obligations from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any notes, warrants, commercial paper or other similar obligations from any revenues not specifically pledged thereto or from which such notes, warrants, commercial paper or other similar obligations have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of notes, warrants, commercial paper or other similar obligations is issued, Metro may:

(1) Pledge as additional security for such notes, warrants, commercial paper or other similar obligations all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such notes, warrants, commercial paper or other similar obligations.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.070 Refunding Bonds

(a) Issuance of Refunding Bonds. Metro may issue from time to time refunding bonds for the purpose of refunding, either at or in advance of maturity, any bonds previously issued by Metro or any bonds or other obligations issued by Metro prior to the effective date of the Charter. Metro may issue refunding bonds for the purpose of refunding and replacing outstanding general obligation bonds in advance of their maturity even if the aggregate principal amount of such refunding bonds exceeds the aggregate principal amount of such general obligation bonds authorized to be issued under the related bond measure so long as the debt service payable on such refunding bonds is less than the debt service payments on the general obligation bonds refunded and replaced thereby. All refunding bonds shall be issued pursuant to an authorizing action as provided in Section 7.02.110 of the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of refunding bonds is issued, Metro may provide that such refunding bonds shall be payable from all or any portion of Metro's revenues(but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including specifically any revenues from which the bonds to be refunded thereby are payable. Metro may pay any amounts owing under any refunding bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any refunding bonds from any revenues not specifically pledged thereto or from which such refunding bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of refunding bonds is issued, Metro may:

(1) Pledge as additional security for such refunding bonds all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such refunding bonds.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.080 Credit Facilities

(a) Authority to Obtain Credit Facility. Metro may obtain a credit facility for the purpose of:

(1) Providing additional security for the payment of all or any portion of the amounts owing under or with respect to any bonds;

(2) Providing liquidity support for bonds which are subject to purchase, redemption or other tender at the option of the owner thereof;

(3) Funding, in lieu of cash, all or any portion of any debt service reserve established with respect to any bonds; or

(4) Any other purpose that Council determines to be beneficial to Metro in connection with any bond financing, including specifically the provision of security for Metro's obligations under or with respect to any financial enhancement product.

The authorization to obtain a credit facility and to enter into any related agreements shall be set forth in an authorizing action as provided in Section 7.02.110 of the Metro Code. Metro may enter into agreements with the provider(s) of such credit facility containing such covenants, terms and conditions as shall be approved or authorized by Council in the related authorizing action.

(b) Payment from Revenues. In the authorizing action relating to a particular credit facility, Metro may provide that its obligations under or with respect to any credit facility shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including (but not limited to) the revenues from which the bonds or financial enhancement product to which such credit facility relates are payable. Metro may pay any amounts owing under or with respect to any credit facility from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under or with respect to any credit facility from any revenues not specifically pledged thereto or from which such credit facility obligations

have not specifically been made payable in accordance with its terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular credit facility is authorized, Metro may:

(1) Pledge as additional security for its obligations under or with respect to such credit facility all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of its obligations under or with respect to such credit facility.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.090 Financial Enhancement Products

(a) Authority to Obtain Financial Enhancement Product. Metro may obtain or enter into financial enhancement products prior to, simultaneous with or subsequent to the issuance of any bonds. The authorization to obtain or enter into a financial enhancement product and to enter into any related agreements shall be set forth in an authorizing action as provided in Section 7.02.110 of the Metro Code. A financial enhancement product may contain such terms and conditions (including but not limited to payment terms, security, agreement term, defaults and remedies) as the Council may approve or authorize in the related authorizing action.

(b) Payment from Revenues. In the authorizing action relating to a particular financial enhancement product, Metro may provide that its obligations under or with respect to the financial enhancement product shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including (but not limited to) the revenues from which the bonds to which such financial enhancement product relates are payable. Metro may pay any amounts owing under or with respect to any financial enhancement product from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under or with respect to any financial enhancement product from any revenues not specifically pledged

thereto or from which such financial enhancement product obligations have not specifically been made payable in accordance with its terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular financial enhancement product is authorized, Metro may:

(1) Pledge as additional security for its obligations under or with respect to such financial enhancement products all or any portion of its revenues; and

(2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of its obligations under or with respect to such financial enhancement product.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.100 Terms and Effect of Pledge, Mortgage or Grant of Security Interest as Security for Metro Obligations

(a) Terms of Pledge, Mortgage or Grant of Security Interest. Any pledge, mortgage or grant of security interest of or in any revenues or property given or made by Metro as security for the payment or performance of any obligation may be made on such terms and conditions, grant or confer such rights and remedies to or on Metro and the persons for whose benefit the security represented thereby is given, and reserve to Metro such rights and privileges (including but not limited reservation of the right to pledge, mortgage or grant security interests in the subject revenues or property on a parity, subordinate or superior lien basis as security for other obligations) as Council shall approve or authorize in the related authorizing action.

(b) Effect of Pledge, Mortgage or Grant of Security Interest. Any pledge, mortgage or grant of security interest of or in any revenues or property given or made by Metro as security for the payment of any amounts owing under or with respect to any bonds, credit facility or financial enhancement product shall be valid, binding and fully perfected:

(1) From the time the pledge, mortgage or grant of security interest is made; and

(2) Against all persons having claims of any kind against Metro whether in tort, contract or

otherwise irrespective of whether such persons have notice thereof.

The revenues and other property so pledged, mortgaged or subjected to a security interest by Metro shall be immediately subject to the lien of the pledge, mortgage or security interest without physical delivery, filing, notice or any other act. Except as otherwise expressly provided in the related authorizing action, the lien of any such pledge, mortgage or security interest shall be superior to all other claims and liens of any kind whatsoever.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-976, Sec. 1.)

7.02.110 Authorizing Actions

(a) Adoption of Authorizing Action. The Council shall authorize all obligations by means of an authorizing action adopted at any regular or special meeting. All authorizing actions shall be in the form of resolutions of the Council; provided that Council may in its discretion, but shall not be required to, adopt an authorizing action which is in the form of an ordinance.

(b) Contents of Authorizing Action. An authorizing action may contain such authorizations and provisions relating to the issuance and sale of the subject obligations, the terms thereof and security therefor, the establishment of various funds and accounts in connection therewith, and covenants and agreements pertaining to the payment and performance of Metro's obligations with respect to the subject obligations, all as the Council determines to be necessary or appropriate, including but not limited to the following:

(1) The pledge of any revenues as security for the payment of the amounts owing under and with respect to the subject obligations and the performance by Metro of its covenants and agreements with respect thereto and the segregation of any revenues pledged to the payment of the subject obligations in any funds or accounts designated for such purpose, all on such terms and conditions, with such remedies afforded the owners of the subject obligations (or a trustee or other fiduciary for such owners) and subject to the reservation by Metro of such rights and privileges as shall be set forth in the authorizing action or authorized in the authorizing action to be set forth in another

document, instrument or agreement relating to the subject obligations;

(2) The mortgage of or grant of a security interest in any property as security for the payment of the amounts owing under and with respect to the subject obligations and the performance by Metro of its covenants and agreements with respect thereto, all on such terms and conditions, with such remedies afforded the owners of the subject obligations (or a trustee or other fiduciary for such owners) and subject to the reservation by Metro of such rights and privileges as shall be set forth in the authorizing action or authorized in the authorizing action to be set forth in another document, instrument or agreement relating to the subject obligations;

(3) The establishment, imposition, levy and collection of rates, charges, fees and taxes, at such levels or in such amounts as shall be deemed by Council to be necessary or appropriate in order to produce revenues in the amounts and at the times required to pay the subject obligations as and when due and to provide any additional margin of net revenues in excess of debt service as the Council determines to be necessary or appropriate in order to better secure the payment of all amounts owing under and with respect to the subject obligation;

(4) The appointment of underwriters, financial consultants, feasibility consultants, consulting engineers, other professional consultants and advisors, trustees, paying agents, registrar, transfer agents, remarketing agents, indexing agents, depositaries, and other agents deemed by Council to be necessary or appropriate in connection with the transactions contemplated by the authorizing action; provided that it shall not be necessary for a single person or entity to serve as trustee, paying agent, registrar and transfer agent for a single series of obligations or for all outstanding obligations, but Metro shall have the right to appoint different persons or entities to serve in one or more of such capacities for a single series of obligations and for different series of obligations; and provided further that Metro may act as its own paying agent, registrar or transfer agent with respect to any one or more series of obligations;

(5) The establishment of debt service reserve funds, renewal and replacement funds, major maintenance funds, depreciation funds, environmental cleanup or liability funds, escrow funds and other such funds and accounts of every kind and description as Council determines to be necessary or appropriate, together with any covenants regarding the maintenance, use or other treatment of such funds and accounts and the investment of the monies on deposit therein;

(6) Authorization of the execution, delivery and performance by Metro of any contracts, agreements, certificates or instruments with third parties determined by Council to be necessary or appropriate in connection with the subject obligations, including but not limited to trust indentures, mortgages, deeds of trust, security agreements, bond purchase agreements and other agreements, including any and all agreements relating to a credit facility or financial enhancement product;

(7) The manner in which the subject bonds shall be sold, which may include a public competitive sale, a private negotiated sale, a competitive negotiated sale, or any other method of sale that Council determines to be in the interests of Metro; and

(8) Make such other covenants, agreements and provisions for protection and security of the owners of the subject obligations as are determined by Council to be necessary or appropriate, including but not limited to covenants, agreements and provisions regarding the issuance of additional obligations, the use and disposition of any property financed or mortgaged as security for the payment of the subject obligations, the maintenance of the federal, state or local tax-exempt status of the obligations or the interest thereon, and the priority of payment of the subject obligations in relationship to the payment of other obligations and pecuniary liability or undertakings of Metro.

Each authorizing action shall constitute a contract with and for the benefit of the owners of the bonds to which such authorizing action relates.

(c) Delegation of Authority. Notwithstanding anything expressed or implied in the Metro Code to the contrary, the Council, in an authorizing action, may delegate to any elected or appointed official or employee of Metro the authority to negotiate, determine and establish such terms, conditions and other matters with respect to the subject obligations and related transactions, instruments and agreements as Council shall specify in the authorizing action, including but not limited to the maturity dates, principal amounts, redemption provisions, interest rates or the method of determining any variable or adjustable interest rate, denominations, the price at which the obligations will be sold and other terms and conditions of the subject obligations and related instruments and agreements that are not appropriately determined at the time of adoption of the authorizing action or that Council deems it necessary or appropriate to so delegate. Any such delegated authority shall be exercised subject to the applicable requirements of law and such limitations and criteria as may be set forth in the authorizing action, and when so exercised shall be valid and binding on, and enforceable against, Metro to the same extent and with the same force and effect as would be the case if such authority had by directly exercised by Council in the authorizing action.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-076, Sec. 1.)

7.02.120 Terms of Obligations

(a) In General. Obligations authorized to be issued by the Metro Charter and Code may be in any form and contain any terms specified in or authorized under the related authorizing action, including but not limited to the following:

(1) Interest rates that are fixed through maturity or that vary in accordance with an index or that are determined from time to time by an agent appointed for such purpose and in accordance with such criteria or standards as shall be set forth in or authorized under the related authorizing action;

(2) Interest rates that are subject to adjustment or revision at such times or upon the occurrence of such events as shall be set forth in or authorized under the related authorizing action;

(3) The payment of accrued interest on such dates as shall be specified in or authorized under the related authorizing action, or the deferral of

payment of interest on a periodic basis prior to maturity, or for a period of time prior to maturity, through the use of financing vehicles such as deep discount obligations, zero coupon obligations, capital appreciation obligations and obligations which convert at a specified time or upon the occurrence of a specified event from capital appreciation obligations to current interest obligations which pay accrued interest on a periodic basis;

(4) The redemption or prepayment provisions to be applicable to the subject obligations, which may include mandatory and optional redemptions or prepayments on such terms and conditions, at such times, and at such redemption or prepayment prices as shall be set forth in or authorized under the related authorizing action, with notice of any such redemption or prepayment to be given at such times, to such persons, in such form and through such media as shall be set forth in or authorized under the related authorizing action;

(5) The terms upon which the subject obligation may be tendered by the owners for purchase for remarketing or retirement of the obligations;

(6) The denominations in which the subject obligations will be issued and the form of such obligations, which may include bearer form with coupons attached, registered form and obligations subject to a book-entry system of ownership, registration and transfer that does not involve the physical delivery of certificates to the ultimate owners of such obligations; and

(7) Principal payment schedules that specify the dates upon which installments of principal shall become due and payable either by virtue of the stated maturity thereof or the mandatory redemption or prepayment of such principal, including but not limited to principal payment schedules that provide for:

(A) Substantially equal annual payments of principal and interest of either the subject obligations alone or the subject obligations in combination with other obligations;

(B) The deferral of the payment of principal for a period of years as Council shall determine is necessary or appropriate;

(C) No amortization of principal until final maturity; and

(D) Amortization of principal in unequal annual installments.

(b) Maximum and Minimum Interest Rates; Sale Price. Obligations may bear interest at such maximum or minimum rates as shall be set forth in or authorized under the related authorizing action, which maximum or minimum rates may be expressed in terms of a percentage, the net interest cost, the true interest cost, the yield or any other method of expressing the time value of money or the cost of borrowing as Council may authorize. Obligations may be sold at such price as shall be set forth in or authorized under the related authorizing action.

(c) Use of Seal. If Metro has an official seal at the time any bonds are issued, it may cause such or a facsimile thereof to be impressed or imprinted on the bonds. However, the failure to imprint, impress or otherwise evidence any such seal on any bond shall not affect the validity thereof.

(d) Authorized Signatures. Bonds (other than certificates of participation) shall be executed on behalf of Metro by the signature or signatures of one or more elected or appointed officials or officers of Metro as specified in or authorized under the related authorizing action. Signatures of the designated officials or officers may be either manual signatures or facsimile signatures.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-076, Sec. 1.)

7.02.130 Investment of Funds

The proceeds derived from the issuance and sale of any obligations and any monies held in any funds or accounts established under any authorizing action in connection with any obligations may be invested in such investments as shall be specified in the related authorizing action without regard to any restrictions, limitations or regulations applicable to the investment of any other Metro funds pursuant to any other Metro ordinance, resolution, code provision or policy.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-076, Sec. 1.)

7.02.140 Manner of Sale

(a) Types of Sale Authorized; Procedures. Subject only to the applicable requirements and limitations of the Metro Code, bonds may be sold pursuant to such type of sale, in such manner and following such procedures as shall be set forth in or authorized under the related authorizing action. The type of bond sale may include a public competitive sale, a private negotiated sale, a competitive negotiated sale, or any other type or method of sale that Council determines to be in the interests of Metro.

(b) Public Competitive Sale. For bonds which are sold at public competitive sale, Metro shall prepare a notice of bond sale which shall include the following information to the extent that, in light of the nature of the subject bonds, such information is appropriate for inclusion in such notice of bond sale:

(1) The time, date and place where bids will be received, and considered and acted upon, the total amount of bonds (which may be stated as an approximate amount subject to finalization upon the award of the bonds), and the denominations of the subject bonds;

(2) The anticipated issue date, maturity dates and amounts, interest payment dates, and place of payment of the subject bonds;

(3) The anticipated redemption provisions;

(4) The maximum effective rate of interest and the minimum purchase price (which may be expressed as a percentage of par value of the bonds) which may be bid;

(5) The required good faith deposit and the form such deposit must take, which may include certified check, cashier's check, fed funds check, surety bond, or other security arrangement satisfactory to Metro;

(6) Such constraints on the interest rates as the issuer may impose;

(7) The basis on which bond bids are to be evaluated for purpose of the award of the subject bonds, which may include a true interest cost method, a

net interest cost method or any other appropriate method of evaluating and comparing the merits of the bids received; and

(8) The name of Metro's bond counsel who will furnish the legal opinion with respect to the subject bonds and the name of Metro's financial advisor in connection with the issuance and sale of the subject bonds.

The notice of bond sale shall be published in such places and through such media as may be provided for or authorized in the related authorizing action, including but not limited posting in public places, publication in financial newspapers or other newspapers published and circulated within or without the State of Oregon, publication and distribution by means of electronic media such as television, radio, computer communication networks, telecopy, telefax, wire services or other such media, and publication and distribution by means of notices sent by United States mail or private carrier or delivery service. The notice of bond sale shall be published not less than five (5) days prior to the date upon which bids are to be received and the bonds awarded; provided that Metro may publish amendments or corrections to, or modifications of, any notice of bond sale (including any amendments, corrections or modifications which may be deemed to be material) at any time which is not less than four (4) hours prior to the time at which bids are to be received and the bonds awarded, which amendments, corrections or modifications may be published through any media which Metro determines is best calculated to reach in a timely manner the persons or firms likely to submit bids.

In all public competitive sales, Metro reserves the rights to:

(A) Reject any and all bids received for such reasons as Metro, in its sole and absolute discretion, determines to be sufficient;

(B) Waive any and all requirements or irregularities;

(C) Extend the period of time by which bids must be received or otherwise postpone the time for the opening of bids and award of the bonds; and

(D) Following the opening of the bids, negotiate the sale of the subject bonds with any person or firm regardless of whether such person or

firm submitted a bid pursuant to and in accordance with the notice of bond sale.

(Ordinance No. 93-495, Sec. 2. Amended by Ordinance No. 02-076, Sec. 1.)

CHAPTER 7.03

INVESTMENT POLICY**

SECTION	TITLE
7.03.010	Scope
7.03.020	General Objectives
7.03.030	Standards of Care
7.03.040	Transaction Counterparties, Investment Advisers and Depositories
7.03.050	Safekeeping and Custody
7.03.060	Suitable and Authorized Investments
7.03.070	Investment Parameters
7.03.080	Prohibited Investments
7.03.090	Reporting
7.03.100	Policy Adoption and Re-Adoption
7.03.110	List of Documents Used in Conjunction with this Policy
7.03.120	Definitions

**Former Chapter 2.06 (readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; readopted December 11, 2001; readopted October 3, 2002; renumbered by Ordinance No. 02-976, Sec. 1; readopted June 12, 2003; amended and readopted April 7, 2005, by Ordinance No. 05-1075; readopted April 20, 2006; readopted June 21, 2007; amended and readopted June 26, 2008, by Ordinance No. 08-1190; amended and readopted June 25, 2009, by Ordinance No. 09-1216; amended and readopted June 17, 2010, by Ordinance No. 10-1243; readopted June 23, 2011, by Resolution No. 11-4272; amended and readopted June 21, 2012 by Ordinance No. 12-1280; and amended and readopted May 9, 2013 by Ordinance No. 13-1303).

7.03.010 Scope

These investment policies apply to all cash-related assets included within the scope of Metro’s audited financial statements and held directly by Metro.

Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the state of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS Chapter 294 and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax-exempt

borrowing proceeds and of any debt service funds will comply with the Internal Revenue Code of 1986 provisions and any subsequent amendments thereto.

(Ordinance No. 90-365; Ordinance No. 97-684, Sec. 1; Ordinance No. 02-976, Sec. 1; Ordinance No. 05-1075; Ordinance No. 09-1216, Sec. 1; Ordinance No. 15-1353, Sec. 1.)

7.03.020 General Objectives

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment return targets are secondary.

a) Safety. Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. The objective will be to mitigate credit risk and interest rate risk.

   1) Credit Risk. Metro will minimize credit risk, the risk of loss due to the financial failure of the security issuer or backer, by:

      - Limiting exposure to poor credits and concentrating the investments in the safest types of securities.
      - Pre-qualifying the financial institutions, broker/dealers, and advisers with which Metro will do business.
      - Diversifying the investment portfolio so that potential losses on individual securities will be minimized. For securities not backed by the full faith and credit of the federal government, diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.
      - Actively monitoring the investment portfolio holdings for ratings changes, changing economic/market conditions, etc.

   2) Interest Rate Risk. Metro will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- The portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio may be placed in the Local Government Investment Pool (LGIP) which offers next-day liquidity.

b) Liquidity. The investment officer shall assure that funds are constantly available to meet immediate payment requirements, including payroll, accounts payable and debt service.

c) Return on Investment. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the safety and liquidity needs of the portfolio. Section 7.03.090 contains additional details on the return objectives.

Although securities are purchased with the intent to hold to maturity, securities may be sold prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

d) Legality. Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro.

(Ordinance No. 87-228, Sec. 3; Ordinance No. 90-365; Ordinance No. 02-976, Sec. 1; Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.030 Standards of Care

a) Prudence. The standard of prudence to be applied by the investment officer shall be the “prudent person” rule: “Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.” The prudent person

rule shall be applied in the context of managing the overall portfolio.

b) Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of Metro. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

c) Delegation of Authority. The Chief Operating Officer is the investment officer of Metro. The authority for investing Metro funds is vested with the investment officer, who, in turn, designates the investment manager to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.

d) Investment Advisory Board (IAB). There shall be an investment advisory board composed of five (5) members.

   1) Terms of Service. The term of service for citizens appointed to the IAB shall be three (3) calendar years. The term of appointment shall be staggered so that not more than two (2) members' terms expire in any calendar year.
   2) Appointment. The investment officer shall recommend to the Council for confirmation the names of persons for appointment to the IAB.

3) Duties. The IAB shall meet quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities and the establishment of written procedures for the investment operations.

e) Monitoring the Portfolio. The investment manager will routinely monitor the contents of the portfolio comparing the holdings to the markets, relative values of competing instruments, changes in credit quality, and benchmarks. If there are advantageous transactions, the portfolio may be adjusted accordingly.

f) Indemnity Clause. Metro shall indemnify the investment officer, chief financial officer, investment manager, staff and the IAB members from personal liability for losses that might occur pursuant to administering this investment policy. The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported to the council as soon as practicable.

g) Internal Controls. The investment officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions.

Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this ordinance.

(Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.040 Transaction Counterparties, Investment Advisers and Depositories

a) Broker Dealers. The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within

the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives.

The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

i. Broker dealers must meet the following minimum criteria:
   A. Be registered with the Securities and Exchange Commission (SEC);
   B. Be registered with the Financial Industry Regulatory Authority (FINRA);
   C. Provide most recent audited financials;
   D. Provide FINRA Focus Report filings.

A periodic (at least annual) review of all authorized broker/dealers will be conducted by the Investment Officer.

b) Investment Advisers. The Investment Officer may engage the services of one or more external investment advisers to assist in the management of Metro's investment portfolio in a manner consistent with this investment policy. If Metro hires an investment adviser to provide investment management services, the adviser is authorized to transact with its direct dealer relationships on behalf of Metro.

Approved investment adviser firms must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon; (Note: Investment adviser firms with assets under management > $100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon).

A periodic (at least annual) review of all authorized investment advisers will be conducted by the Investment Officer to determine their continued eligibility within the portfolio guidelines.

c) Depositories. All financial institutions who desire to become depositories must be qualified Oregon Depositories pursuant to ORS Chapter 295.

d) Competitive Transactions. The Investment Officer shall obtain and document competitive bid information on all

investments purchased or sold in the secondary market. Competitive bids or offers should be obtained, when possible, from at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform. In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, then the Investment Officer shall document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities as the same original issue price. However, the Investment Officer is encouraged to document quotations on comparable securities. If an investment adviser provides investment management services, the adviser must retain documentation of competitive pricing execution on each transaction and provide upon request.

(Ordinance No. 15-1353, Sec. 1.)

7.03.050 Safekeeping and Custody

a) Delivery vs. Payment. All securities purchased pursuant to this investment policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as custodian. Purchase and sale of all securities will be on a payment versus delivery basis. Delivery versus payment will also be required for all repurchase transactions and with the collateral priced and limited in maturity in compliance with ORS 294.035(2)(j). Notwithstanding the preceding, an exception to the delivery versus payment policy is made when purchasing State and Local Government Series Securities (SLGS) from the United States Treasury's Bureau of Public Debt to satisfy arbitrage yield restriction requirements of the Internal Revenue Code for tax-exempt bond issues.

b) Custody/Safekeeping. The trust department of the bank designated as custodian will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The custodian shall issue a

safekeeping receipt to Metro listing the specific instrument, rate, maturity and other pertinent information.

(Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.060 Suitable and Authorized Investments

(Definitions of terms and applicable authorizing statutes are listed in the "Summary of Investments Available to Municipalities" provided by the State Treasurer).

a) Investment Types. The following investments are permitted by this policy and ORS 294.035 and 294.810.

1) Lawfully issued general obligations of the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government and obligations whose payment is guaranteed by the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government. Maximum percent of portfolio allocation is 100%. No more than 40% of the portfolio in any one agency, instrumentality, or sponsored enterprise.

2) Certificates of Deposit (CD) from commercial banks in Oregon and insured by the Federal Deposit Insurance Corporation (FDIC). Maximum percent of portfolio allocation is 100%. Investments in Certificates of Deposit invested in any one institution shall not exceed 5% of the total available funds and 15% of the equity of the financial institution.

3) Repurchase Agreements (Repo’s) purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. The repurchase agreement must be in writing and executed in advance of the initial purchase of the securities that are the subject of the repurchase agreement.

i. ORS 294.035 (3)(j) requires repurchase agreement collateral to be limited in maturity to three years and priced according to percentages prescribed by written policy of the Oregon Investment Council or the Oregon Short-Term Fund Board.

ii. ORS 294.135 (2) limits the maximum term of any repurchase agreement to 90 days.

iii. Acceptable collateral:

A. US Treasury Securities: 102%

B. US Agency Discount and Coupon Securities: 102%

Maximum percent of portfolio allocation is 50%. The investment officer shall not enter into any reverse repurchase agreements.

4) Banker’s Acceptances (BA) that are (i) guaranteed by, and carried on the books of, a qualified financial institution, (ii) eligible for discount by the Federal Reserve System, and (iii) issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category (A-1, P-1, F-1) by one or more nationally recognized statistical rating organization.

Qualified institution means a financial institution that is located and licensed to do banking business in the state of Oregon; or a financial institution located in the states of California, Idaho, or Washington that is wholly owned by a bank holding company that owns a financial institution that is located and licensed to do banking business in the state of Oregon.

Maximum percent of portfolio allocation is 25%. Investments in Bankers’ Acceptances invested in any one institution shall not exceed 5% of the total available funds and 15% of the equity of the financial institution.

5) Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Must be issued by a commercial, industrial or utility business enterprise, or by or on behalf of a financial institution, including a holding company owning a majority interest in a qualified financial institution. Maximum allocation of 35%. No more than 5% of the total portfolio with any one corporate entity.

a) Commercial Paper (CP)rated on the trade date P-1 or better by Moody’s Investors Service or A-1 or better by Standard & Poor’s Corporation or equivalent rating by any nationally recognized statistical rating organization.

b) Corporate indebtedness must be rated on trade date AA or better by Moody’s Investors Service or AA or better by Standard & Poor’s Corporation or equivalent by any nationally recognized statistical rating organization.

c) Notwithstanding subparagraph (a) and (b) of this paragraph, the corporate indebtedness must be rated on the trade date P-2 or A or better by Moody’s Investors Service or A-2 or A or better by Standard & Poor’s Corporation or equivalent rating by any nationally recognized statistical rating organization when the corporate indebtedness is:

i.) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in Oregon; or

ii.) Issued by a holding company owning not less than a majority interest in a qualified financial institution, as defined by ORS 294.035, located and licensed to do banking business in Oregon or by a holding company owning not less than a majority interest in a business enterprise described in sub-subparagraph (i) of this subparagraph.

6) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon or its political subdivisions with a long-term rating of A or an equivalent rating or better or the highest category for short term municipal debt.

Lawfully issued debt obligations of the States of California, Idaho and Washington or their political subdivisions with a long-term rating of AA or an equivalent rating or better or the highest category for short term municipal debt.

Maximum percent of portfolio allocation is 25%. No more than 5% of the total portfolio in any one issuing entity.

Such obligations may be purchased only if there has been no default in payment of either the principal of or the interest on the obligations of the issuing county, port, school district or city, for a period of five years next preceding the date of the investment, per ORS 294.040.

7) State of Oregon Investment Pool. Maximum allowed per ORS 294.810, with the exception of pass-through funds (in and out within 10 days). A thorough investigation of the pool/fund is required prior to investing, and on a continual basis. Metro shall perform a periodic review of:

   i) Pool's investment policy and objectives

   ii) Interest calculations and how it is distributed

   iii) How the securities are safeguarded

   iv) How often the securities are priced

8) Market Interest Accounts and Checking Accounts. Metro shall maintain necessary allocation needed for daily cash management efficiency.

b) Callable securities. The maximum percent of callable securities in the portfolio shall be 35%.

c) Summary of Permitted Investments.

Investment Type	Maximum Maturity	Maximum Portfolio Allocation	Maximum Allocation Per Issuer	Minimum Rating
U.S. Treasuries	5 years	100%	100%	-
Federal Agencies	5 years	100%	40%	-
Time CDs	5 years	100%	5%	FDIC insured
Repurchase Agreements	90 days	50%	-	Collateralized
Bankers Acceptances	180 days	25%	5%	A-1
Corporate notes	5 years	35%	5%	AA A if OR
Commercial Paper	270 days		5%	A-1 A-2 if OR

OR munis	5 years	25%	5% (per issuing entity)	A
ID, CA, WA munis	5 years		5% (per issuing entity)	AA
OSTF	-	Amount established by ORS 294.810	-	-
Market interest and checking accounts	-	Amount necessary for daily cash mgmt	-	-

(Ordinance No. 05-1075; Ordinance No. 09-1216, Sec. 1; Ordinance No. 12-1280, Sec. 1.; Ordinance No. 13-1303; Ordinance No. 15-1353, Sec. 1.)

7.03.070 Investment Parameters

a) Diversification by Maturity. Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of repurchase agreements under ORS 294.135(2).

Funds will be invested to coincide with projected cash needs or with the following serial maturity:

20% minimum to mature under three months;
25% minimum to mature under 18 months;
100% minimum to mature under five years.

At all times, Metro will maintain a minimum amount of funds to meet liquidity needs for the next three months, which can be through a combination of cash and investments. The duration of Metro’s portfolio shall not exceed 2.5 years.

Investments may not exceed five (5) years. Investment maturities beyond 18 months may be made when supported by cash flow projections which reasonably demonstrate that liquidity requirements will be met.

b) Diversification by Investment. The investment officer will diversify the portfolio to avoid incurring unreasonable

risks inherent in over-investing in specific instruments, individual financial institutions, or maturities.

c) Collateralization. Deposit-type securities (i.e., Certificates of Deposit) and all bank deposits for any amount exceeding FDIC coverage shall be collateralized through the Public Funds Collateralization Program as required by ORS Chapter 295. ORS Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the Public Funds Collateralization Program. Bank depositories are required to pledge collateral against any public funds deposits in excess of deposit insurance amounts. ORS 295 sets the specific value of the collateral, as well as the types of collateral that are acceptable.

d) Total Prohibitions. The investment officer may not make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction and may not agree to invest funds or sell securities for a fee other than interest. Purchase of standby or forward commitments of any sort are specifically prohibited.

e) Adherence to Investment Diversification. Diversification requirements must be met on the day an investment transaction is executed. If due to unanticipated cash needs, investment maturities or marking the portfolio to market, the investment in any security type, financial issuer or maturity spectrum later exceeds the limitations in the policy, the investment officer is responsible for bringing the investment portfolio back into compliance as soon as is practical.

(Ordinance No. 05-1075; Ordinance No. 08-1190; Ordinance No. 13-1302; Ordinance No. 15-1353, Sec. 1.)

7.03.080 Prohibited Investments

a) Private Placement or 144A Securities. Private placement or “144A” securities are not allowed. “144A” securities include commercial paper issued under section 4(2)144A (also known as “4(2)A”) of the Securities Act of 1933.

b) Mortgage-backed Securities are not allowed.

c) Securities Lending. Metro shall not lend securities nor directly participate in a securities lending program.

(Ordinance No. 15-1353, Sec. 1.)

7.03.090 Reporting

a) Methods. A transaction report shall be prepared by the investment manager not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.

b) Compliance. Quarterly reports shall be prepared for each regular meeting of the IAB to present historical information for the past 12-month period and that allows the IAB to ascertain whether investment activities during the reporting period have conformed to the investment policy. Copies shall be provided to the Chief Operating Officer and the Metro Council. At each quarterly meeting, a report reflecting the status of the portfolio will be submitted for review and comment by at least three (3) members of the IAB. Discussion and comment on the report will be noted in minutes of the meeting. If concurrence is not obtained, notification will be given to the investment officer, including comments by the IAB.

c) Performance Standards. The overall performance of Metro's investment program is evaluated quarterly by the IAB using the objectives outlined in this policy. The quarterly report which confirms adherence to this policy shall be provided to the Metro Council as soon as practicable.

The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. The primary benchmark of the portfolio will be the Bank of America Merrill Lynch 0-3 Year US Treasury Index. The Investment Officer may use other appropriate benchmarks including the Local Government Investment Pool's monthly average yield or a series of appropriate benchmarks

consistent with Metro’s investment objectives for additional analysis. Metro will use these benchmarks to determine the effectiveness of the investment strategy and return relative to market. The Investment Officer, IAB, and the Investment Advisor will review benchmarks annually for appropriateness and consistency with Metro’s investment objectives.

d) Accounting Method. Metro shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies, including, but not necessarily limited to, the American Institute of Certified Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB).

(Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.100 Policy Adoption and Re-adoption

a) The investment policy must be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro Council. Adoption of this policy supersedes any other previous Council action or policy regarding Metro's investment management practices.

b) This policy shall be subject to review and re-adoption annually by the Metro Council in accordance with ORS 294.135.

(Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.110 List of Documents Used in Conjunction with this Policy

The following documents are used in conjunction with this policy and are available from the investment manager upon request:

- List of Authorized Brokers and Dealers
- List of Primary Dealers
- Calendar of Federal Reserve System Holidays
- Calendar of Local Government Investment Pool Holidays
- Broker/Dealer Request for Information

- Oregon State Treasury's Summary of Liquid Investments Available to Local Governments for Short-Term Fund Investment
- Oregon State Treasury's U.S. Government and Agency Securities for Local Government Investment Under ORS 294.035 and 294.040
- Oregon State Treasury's List of Qualified Depositories for Public Funds
- Attorney General's letter of advice: Certificates of Deposit, ORS 294.035 and ORS Chapter 295
- Oregon Revised Statute Chapter 294 – County and Municipal Financial Administration
- Oregon Revised Statute Chapter 295 – Depositories of Public Funds and Securities
- Government Finance Officers Association Glossary of Cash Management Terms

(Ordinance No. 05-1075; Ordinance No. 15-1353, Sec. 1.)

7.03.120 Definitions

(a) "Accrued Interest" means interest earned but which has not yet been paid or received.

(b) "Benchmark Notes/Bonds" mean Benchmark Notes and Bonds are a series of FNMA "bullet" maturities (non-callable) issued according to a pre-announced calendar. Under its Benchmark Notes/Bonds program, 2, 3, 5, 10 and 30-year maturities are issued each quarter. Each Benchmark Notes new issue has a minimum size of $4 billion, 30-year new issues having a minimum size of $1 billion, with reopenings based on investor demand to further enhance liquidity. The amount of non-callable issuance has allowed FNMA to build a yield curve in Benchmark Notes and Bonds in maturities ranging from 2 to 30 years. The liquidity emanating from these large size issues has facilitated favorable financing opportunities through the development of a liquid overnight and term repo market. Issues under the Benchmark program constitute the same credit standing as other FNMA issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

(c) "Book Value" means the value at which a debt security is reflected on the holder's records at any point in time. Book value is also called "amortized cost" as it represents the

original cost of an investment adjusted for amortization of premium or accretion of discount. Also called “carrying value.” Book value can vary over time as an investment approaches maturity and differs from “market value” in that it is not affected by changes in market interest rates.

(d) “Bullet Notes/Bonds” mean notes or bonds that have a single maturity date and are non-callable.

(e) “Callable Bonds/Notes” mean securities which contain an imbedded call option giving the issuer the right to redeem the securities prior to maturity at a predetermined price and time.

(f) “Certificate of Deposit Account Registry Service (CDARS)” means a private service that breaks up large deposits (from individuals, companies, nonprofits, public funds, etc.) and places them across a network of banks and savings associations around the United States. Allows depositors to deal with a single bank that participates in CDARS but avoid having funds above the FDIC deposit insurance limits in any one bank.

(g) “Commercial Paper” means a short term unsecured promissory note issued by a company or financial institution. Issued at a discount and matures for par or face value. Usually a maximum maturity of 270 days, and given a short-term debt rating by one or more NRSROs.

(h) “Coupon Rate” means the annual rate of interest on a debt security, expressed as a percentage of the bond’s face value.

(i) “Discount Notes” mean unsecured general obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year.

(j) “Federal Agency Security” means a security issued by a federal agency or certain federally chartered entities (often referred to as government-sponsored enterprises or GSEs). Agency securities typically are not guaranteed by the federal government, particularly those of GSEs.

(k) “Federal Farm Credit Bank (FFCB)” means one of the large Federal Agencies. A Government Sponsored Enterprise (GS) system that is a network of cooperatively-owned lending institutions that provide credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and provide other

assistance to farmers and farm-affiliated businesses. Consists of the consolidated operations of the Banks for Cooperatives, Federal Intermediate Credit Banks, and Federal Land Banks. Frequent issuer of discount notes, agency notes and callable agency securities. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and agricultural industry.

(l) “Federal Home Loan Bank System (FHLB)” means one of the large Federal Agencies. A Government Sponsored Enterprise (GSE) system, consisting of wholesale banks (currently twelve district banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its “global note” and “TAP” programs.

(m) “Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac")” means one of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “reference note” program.

(n) “Federal National Mortgage Association (FNMA or "Fannie Mae")” means one of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S.

financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “benchmark note” program.

(o) “Federal Reserve Bank” means one of the 12 distinct banks of the Federal Reserve System.

(p) “Global Notes” means notes designed to qualify for immediate trading in both the domestic U.S. capital market and in foreign markets around the globe. Usually large issues that are sold to investors worldwide and therefore have excellent liquidity. Despite their global sales, global notes sold in the U.S. are typically denominated in U.S. dollars.

(q) “Government National Mortgage Association (GNMA or "Ginnie Mae")” mean one of the large Federal Agencies. Government-owned Federal Agency that acquires, packages, and resells mortgages and mortgage purchase commitments in the form of mortgage-backed securities. Largest issuer of mortgage pass-through securities. GNMA debt is guaranteed by the full faith and credit of the U.S. government (one of the few agencies that is actually full faith and credit of the U.S.).

(r) “Government Sponsored Enterprise (GSE)” means a privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries. Examples of GSEs include: FHLB, FHLMC, and FNMA.

(s) “Market Value” means the fair market value of a security or commodity. The price at which a willing buyer and seller would pay for a security.

(t) “Mortgage Backed Security (MBS)” means a type of asset-backed security that is secured by a mortgage or collection of mortgages. These securities must also be grouped in one of the top two ratings as determined by a accredited credit rating agency, and usually pay periodic payments that are similar to coupon payments. Furthermore, the mortgage must have originated from a regulated and authorized financial institution.

(u) “Nationally Recognized Statistical Rating Organization (NRSRO)” means a designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide

credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating. Includes Moody's, Standard and Poor's, Fitch and Duff & Phelps.

(v) "Par Value" means face value, stated value or maturity value of a security.

(w) "Primary Dealer" means any of a group of designated government securities dealers designated by to the Federal Reserve Bank of New York. Primary dealers can buy and sell government securities directly with the Fed. Primary dealers also submit daily reports of market activity and security positions held to the Fed and are subject to its informal oversight. Primary dealers are considered the largest players in the U.S. Treasury securities market.

(x) "Primary Market" means the market for new issues of securities, as distinguished from the Secondary Market, where previously issued securities are bought and sold. A market is primary if the proceeds of sales go to the issuer of the securities sold. The term also applies to government securities auctions.

(y) "Reference Bills" mean FHLMC's short-term debt program created to supplement its existing discount note program by offering issues from one month through one year, auctioned on a weekly or on an alternating four-week basis (depending upon maturity) offered in sizeable volumes ($1 billion and up) on a cycle of regular, standardized issuance. Globally sponsored and distributed, Reference Bill issues are intended to encourage active trading and market-making and facilitate the development of a term repo market. The program was designed to offer predictable supply, pricing transparency and liquidity, thereby providing alternatives to Treasury bills. FHLMC's Reference Bills are unsecured general corporate obligations. This program supplements the corporation's existing discount note program. Issues under the Reference program constitute the same credit standing as other FHLMC discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

(z) "Reference Notes" mean FHLMC's intermediate-term debt program with issuances of 2, 3, 5, 10 and 30-year maturities. Initial issuances range from $2 - $6 billion with reopenings ranging $1 - $4 billion. The notes are high-quality bullet structures securities that pay interest semiannually. Issues under the Reference program constitute the same credit standing

as other FHLMC notes; they simply add organization and liquidity to the intermediate- and long-term Agency market.

(aa) “Secondary Market” means markets for the purchase and sale of any previously issued financial instrument.

(bb) “TAP Notes” mean Federal Agency notes issued under the FHLB TAP program. Launched in 6/99 as a refinement to the FHLB bullet bond auction process. In a break from the FHLB’s traditional practice of bringing numerous small issues to market with similar maturities, the TAP Issue Program uses the four most common maturities and reopens them up regularly through a competitive auction. These maturities (2,3,5 and 10 year) will remain open for the calendar quarter, after which they will be closed and a new series of TAP issues will be opened to replace them. This reduces the number of separate bullet bonds issued, but generates enhanced awareness and liquidity in the marketplace through increased issue size and secondary market volume.

(cc) “Tennessee Valley Authority (TVA)” means a federally owned corporation in the United States created by congressional charter in May 1933 to provide navigation, flood control, electricity generation, fertilizer manufacturing, and economic development in the Tennessee Valley, a region particularly impacted by the Great Depression. The enterprise was a result of the efforts of Senator George W. Norris of Nebraska. TVA was envisioned not only as a provider, but also as a regional economic development agency that would use federal experts and electricity to rapidly modernize the region's economy and society.

(dd) “Treasury Bills (T-Bills)” mean short-term direct obligations of the United States Government issued with an original term of one year or less. Treasury bills are sold at a discount from face value and do not pay interest before maturity. The difference between the purchase price of the bill and the maturity value is the interest earned on the bill. Currently, the U.S. Treasury issues 4-week, 13-week and 26-week T-Bills

(ee) “Treasury Bonds” mean long-term interest-bearing debt securities backed by the U.S. Government and issued with maturities of ten years and longer by the U.S. Department of the Treasury.

(ff) “Treasury Notes” mean intermediate interest-bearing debt securities backed by the U.S. Government and issued with maturities ranging from one to ten years by the U.S. Department

of the Treasury. The Treasury currently issues 2-year, 3-year, 5-year, 7-year and 10-year Treasury Notes.

(gg) “U.S. Government Backed Securities” mean FDIC-guaranteed corporate debt issued under the Temporary Liquidity Guarantee Program (TLGP) and backed by the full faith and credit of the United States Government with a maximum final maturity of five years.

(hh) “Yield to Maturity (YTM) at Cost” means the percentage rate of return paid if the security is held to its maturity date at the original time of purchase. The calculation is based on the coupon rate, length of time to maturity, and original price. It assumes that coupon interest paid over the life of the security is reinvested at the same rate. The Yield at Cost on a security remains the same while held as an investment.

(Ordinance No. 15-1353, Sec. 1.)

Chapter 7.04

CONSTRUCTION EXCISE TAX

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7.04.010 Short Title

This chapter shall be known as the "Construction Excise Tax."

(Ordinance No. 06-1115, Sec. 1.)

7.04.020 Policy and Purpose

This chapter establishes a Construction Excise Tax to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary.

(Ordinance No. 06-1115, Sec. 1.)

7.04.030 Definitions

As used in this chapter:

(a) "Building Official" means any person charged by a municipality with responsibility for the administration and enforcement of a building code.

(b) "Chief Operating Officer" means the person holding the position of Metro Chief Operating Officer established by Section 2.20.010 of the Metro Code.

(c) "Construction" means erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law, whether residential or non-residential. Construction also includes the installation of a manufactured dwelling.

(d) "Contractor" means any person who performs Construction for compensation.

(e) "Improvement" means any newly constructed structure or a modification of any existing structure.

(f) "Major Renovation" means any renovation, alteration or remodeling of an existing building or structure, or portion thereof, residential or non-residential, that requires or receives a building permit.

(g) "Manufactured Dwelling" means any building or structure designed to be used as a residence that is subject to regulation pursuant to ORS 446, as further defined in ORS 446.003(26).

(h) "Person" means and includes individuals, domestic and foreign corporations, public bodies, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any legal entity whatsoever.

(i) "Value of New Construction" means the total value of the Construction as determined by the construction permit or building permit for the Improvement and/or Major Renovation.

(Ordinance No. 06-1115, Sec. 1.)

7.04.040 Exemptions

(a) No obligation to pay the tax imposed by Section 7.04.070 shall be imposed upon any Person who establishes that one or more of the following are met:

(1) The Value of New Construction is less than or equal to $100,000; or

(2) The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes and the property is restricted to being occupied by Persons with incomes less than 50 percent (50%) of the median income for a period of 30 years or longer; or

(3) The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) and the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than 50 percent (50%) of the median income.

(b) The Building Official or Chief Operating Officer may require any Person seeking an exemption to demonstrate that the Person is eligible for an exemption and that all necessary facts to support the exemption are established.

(Ordinance No. 06-1115, Sec. 1.)

7.04.045 Ceiling

Notwithstanding the provisions set forth in Sections 7.04.070 and 7.04.080, if the Construction Excise tax imposed by this Chapter would be greater than $12,000 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the Construction Excise Tax imposed for that Construction is capped at a ceiling of $12,000 (Twelve Thousand Dollars).

(Ordinance No. 06-1115, Sec. 1.)

7.04.050 Rules and Regulations Promulgation

The Chief Operating Officer shall promulgate rules and regulations necessary for the administration and enforcement of this chapter.

(Ordinance No. 06-1115, Sec. 1.)

7.04.060 Administration and Enforcement Authority

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter. In exercising the responsibilities of this section, the Chief Operating Officer may act through a designated representative.

(b) In order to carry out the duties imposed by this chapter, the Chief Operating Officer shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: administer oaths, certify to all official acts; to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations; to require production of relevant documents at public hearings; to swear witnesses; and to take testimony of any Person by deposition.

(Ordinance No. 06-1115, Sec. 1.)

7.04.070 Imposition of Tax

A Construction Excise tax is imposed on every Person who engages in Construction within the Metro Area. The tax shall be measured by the total Value of New Construction at the rate set forth in Section 7.04.080. If no additional value is created or added by the Construction and if the Construction does not constitute a Major Renovation, then there shall be no tax due. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority.

(Ordinance No. 06-1115, Sec. 1.)

7.04.080 Rate of Tax

The rate of tax to be paid for Construction and/or Major Renovation shall be 0.12% of the Value of New Construction.

(Ordinance No. 06-1115, Sec. 1.)

7.04.090 Failure to Pay

It shall be unlawful for any Person to fail to pay all or any portion of the tax imposed by this chapter.

(Ordinance No. 06-1115, Sec. 1.)

7.04.100 Statement of Entire Value of New Construction Required

It shall be unlawful for any Person to fail to state or to misstate the full Value of New Construction of any Improvement, Major Renovation, or Manufactured Dwelling. When any Person pays the tax, within the time provided for payment of the tax, there shall be a conclusive presumption, for purposes of computation of the tax, that the Value of New Construction of the Improvement, Major Renovation, or Manufactured Dwelling is the Value of New Construction as determined by the Building Official at the time of issuance of the building permit or installation permit. When any Person fails to pay the tax within the time provided for payment of the tax, the Value of New Construction constructed shall be as established by the Chief Operating Officer who may consider the Value of New Construction established by the Building Official but may consider other evidence of actual value as well.

(Ordinance No. 06-1115, Sec. 1.)

7.04.110 Intergovernmental Agreements

The Chief Operating Officer may enter into intergovernmental agreements with other local governments and jurisdictions to provide for the enforcement of this chapter and the collection and remittance of the Construction Excise Tax. The agreements may provide for the governments to retain no more than 5 percent (5%) of the taxes actually collected as reimbursement of administrative expenses, and also for the reimbursement of the government’s reasonable, one time, start-up costs as set forth in the agreements.

(Ordinance No. 06-1115, Sec. 1.)

7.04.120 Rebates

(a) The Chief Operating Officer shall rebate to any Person who has paid a tax the amount of tax actually paid, upon the

Person establishing that the tax was paid for Construction that is eligible for an exemption under Section 7.04.040.

(b) The Chief Operating Officer shall either rebate all amounts due under this section within 30 days of receipt of a complete application for the rebate or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.04.140.

(Ordinance No. 06-1115, Sec. 1.)

7.04.130 Hearings Officer

The Chief Operating Officer shall appoint a hearings officer to conduct hearings related to enforcement or appeals of this chapter. All hearings shall be conducted in accordance with rules and regulations adopted by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

7.04.140 Appeals

Any Person who is aggrieved by any determination of the Chief Operating Officer regarding liability for payment of the tax, the amount of tax owed, or the amount of tax that is subject to refund or rebate may appeal the determination in accordance with Section 7.04.130. All appeals must be in writing and must be filed within 10 days of the determination by the Chief Operating Officer. No appeal may be made unless the Person has first paid the tax due as determined by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

7.04.150 Refunds

(a) Upon written request, the Chief Operating Officer shall refund any tax paid to the Person who paid the tax after that Person has established that Construction was not commenced and that any Building Permit issued has been cancelled as provided by law.

(b) The Chief Operating Officer shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.04.140.

(Ordinance No. 06-1115, Sec. 1.)

7.04.160 Enforcement by Civil Action

The tax and any penalty imposed by this chapter constitutes a debt of the Person liable for the tax as set forth in Section 7.04.070 of this chapter and may be collected by the Chief Operating Officer in an action at law. If litigation is necessary to collect the tax and any penalty, the prevailing party shall be entitled to reasonable attorney fees at trial or on appeal. The Office of Metro Attorney is authorized to prosecute any action needed to enforce this chapter as requested by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

7.04.170 Review

Review of any action of the Chief Operating Officer taken pursuant to this chapter, or the rules and regulations adopted pursuant thereto, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.

(Ordinance No. 06-1115, Sec. 1.)

7.04.180 Failure to Pay – Penalty

In addition to any other fine or penalty provided by this chapter, failure to pay the tax within 15 days of the date of issuance of any Building Permit for any Improvement, Major Renovation, or installation permit for any Manufactured Dwelling shall result in a penalty equal to the amount of tax owed or fifty dollars ($50.00), whichever is greater.

(Ordinance No. 06-1115, Sec. 1.)

7.04.190 Violation – Penalty

(a) In addition to any other civil enforcement provided herein, violation of this chapter shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars ($500.00).

(b) Violation of this chapter by any officer, director, partner or other Person having direction or control over any Person violating this chapter shall subject each such Person to such fine.

(Ordinance No. 06-1115, Sec. 1.)

7.04.200 Rate Stabilization

In order to protect against the cyclical nature of the construction industry and development patterns, the Council shall annually as part of the budget process create reserves from the revenues generated or expected to be generated by the Construction Excise Tax, which reserves are designed to protect against future fluctuations so as to promote stability in the funds needed to support required programs.

(Ordinance No. 06-1115, Sec. 1.)

7.04.210 Dedication of Revenue

Revenue derived from the imposition of this tax after deduction of necessary costs of collection shall be dedicated to fund regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.

(Ordinance No. 06-1115, Sec. 1.)

7.04.220 Procedures for Distribution

The Chief Operating Officer shall distribute the revenues from the Construction Excise Tax as grants to local governments based on an analysis of grant requests submitted by the local jurisdiction which set forth the expected completion of certain milestones associated with Metro Code Chapter 3.07, the Urban Growth Management Functional Plan.

(Ordinance No. 06-1115, Sec. 1; and Ordinance No. 09-1220, Sec. 2.)

7.04.225 Metro Administrative Fee

Metro shall retain five percent (5%) of the taxes remitted to Metro for payment towards Metro’s administrative expenses.

(Ordinance No. 09-1220, Sec. 2; and Ordinance No. 14-1328, Sec. 2.)

7.04.230 Sunset Provision

The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after December 31, 2020.

(Ordinance No. 06-1115, Sec. 1; Ordinance No. 09-1220, Sec. 2; and Ordinance No. 14-1328, Sec. 2.)

TITLE IX

ELECTIONS

CHAPTERS	TITLE
9.01	Vacancies in Office
9.02	Ballot Measures, Initiative and Referendum

CHAPTER 9.01

VACANCIES IN OFFICE

SECTIONS	TITLE
9.01.010	Definitions
9.01.020	Vacancy in Office
9.01.030	Declaration of Vacancy
9.01.040	Filling of Vacancy; Election to Fill a Vacancy (repealed Ord. 04-1054 §1)
9.01.050	Appointments and Elections to Fill Vacancy
9.01.060	Method of Making Appointments
9.01.070	Emergency Succession

9.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Director of Elections" means the Director of the Division of Elections of Multnomah County, or the authorized representative.

(b) "Elective office" means the office of:

(1) Council President;

(2) Metro Auditor; or

(3) Councilor representing an individual subdistrict.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1).)

9.01.020 Vacancy in Office

An elective office of Metro shall become vacant:

(a) Upon the incumbent's:

(1) Death;

(2) Adjudicated incompetence;

(3) Recall from the office;

(4) Upon the failure of the person elected or appointed to the office to qualify for it within 10 days after the time for the term of office to commence;

(5) In the case of a member of the Metro Council, upon absence from all regularly scheduled meetings of the Metro Council within any 60-day period. Attendance at meetings of Council committees or other Metro or Metro-related bodies shall not be considered attendance at Metro Council meetings;

(6) Ceasing to reside in the subdistrict from which elected or appointed, except when subdistrict boundaries are reapportioned and a Councilor is assigned to a subdistrict where the Councilor does not reside and the Councilor becomes a resident of the reapportioned subdistrict within 60 days after the reapportionment is effective;

(7) Ceasing to be a qualified elector under state law;

(8) Conviction of a felony, or conviction of a federal or state offense punishable by a loss of liberty and pertaining to his or her office;

(9) Resignation from office;

(10) Becoming an elected officer of the state or a city, county or special district. As used in this chapter, special district does not include school districts;

(11) In case of the Council President or Metro Auditor, upon his or her ceasing to reside within the Metro Area; or

(12) In the case of the Metro Auditor, if the incumbent ceases to hold the designation of Certified Public Accountant or Certified Internal Auditor.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1.)

9.01.030 Declaration of Vacancy

The Metro Council, upon becoming aware of grounds to find that a vacancy exists in an elective office, shall promptly determine and declare the date of vacancy by the adoption of a resolution. The incumbent shall be entitled to receive notice of the filing of a resolution to declare a vacancy by the mailing of such

notice to the incumbent's last known address. The incumbent shall be entitled to appear before the Council to show cause, if any may exist, why the Council should not declare the existence of a vacancy.

(Ordinance No. 93-517B.)

9.01.050 Appointments and Elections to Fill Vacancy

(a) Whenever a vacancy occurs in a Metro elective office, the Council shall make an appointment to fill the vacancy. The term of the appointment shall be for the period until a successor is elected and qualified as provided in this section. If no election to fill the vacancy is required to be held under this section, then the appointment shall be for the remainder of the term of the vacated office.

(b) If the vacancy is declared in a Metro elective office before the filing deadline for the next subsequent nominating primary election, and at the time of the declaration of vacancy there are more than two (2) years remaining in the term of the vacated office, the Council shall make an appointment to fill the vacancy for a period extending until the first Monday of the year following the next subsequent general election. At the next subsequent nominating primary election, an election shall be held to fill the vacancy for the remainder of the term of the vacated office in accordance with Oregon law.

(c) If a vacancy is declared in a Metro elective office after the filing deadline for the next subsequent nominating primary election but 70 days or more before the next subsequent general election, and at the time of the declaration of vacancy there are more than two (2) years remaining in the term of the vacated office, then at the next general election an election shall be held to fill the vacancy for the remainder of the term of the vacated office.

(d) If a vacancy is declared in a Metro elective office less than 70 days before the next subsequent general election, and as of the first Monday of the year following the next such subsequent general election there will be two (2) years or less remaining in the term of the vacated office, the Council shall make an appointment to fill the vacancy for the remaining term of the office.

(e) The candidate receiving the most votes at any general election held pursuant to this section shall be elected

notwithstanding the fact that such candidate may not have received a majority of the votes cast. Nominations for elections to fill a vacancy shall be made by the method established by Oregon law for the selection of candidates for nomination at a primary election. Except as otherwise provided by Oregon law for nominations to fill a vacancy at a general election, such petition or declaration shall be filed with the Director of Elections not later than the 70th day prior to the date of the election.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1; Ordinance No. 04-1054, Sec. 2.)

9.01.060 Method of Making Appointments

(a) Whenever a vacancy occurs in a Council position representing a subdistrict on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council. The appointment process shall include the following:

(1) Notification of the appointment process and of the availability of application forms in a newspaper of general circulation in the Metro Area, in local newspapers which serve the Council subdistrict, and other journals, publications and circulars deemed appropriate at least four (4) weeks prior to the appointment.

(2) Notification of the appointment process and of the availability of application forms to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least four (4) weeks prior to the appointment.

(3) Notification may be given at the direction of the Council President in advance of any formal declaration of a vacancy by the Council.

(4) The Council President may establish a deadline for the receipt of applications which shall be no earlier than one (1) week prior to the date set for the making of the appointment at the time notice is given.

(5) Conduct of a public hearing in the vacant subdistrict before a subcommittee of the Council appointed by the Council President. The subcommittee shall report all testimony received to the full Council.

(6) Conduct of interviews with applicants for the vacant position before the Council.

(7) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The results of each ballot shall be announced following the vote and the result of each Councilor's ballot shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(b) If a vacancy occurs in the office of Council President or Metro Auditor, the Metro Council shall appoint a person to fill the vacancy subject to the following procedure. The appointment process shall include the following:

(1) Notification of the existence of the vacancy and that the Council will be making an appointment to fill the vacancy shall be given in a newspaper of general circulation within the Metro Area and in such other manner as deemed appropriate by the Council at the time the vacancy is declared.

(2) Conduct of interviews with applicants for the vacant position before the Council.

(3) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The results of each ballot shall be announced following the vote and the result of each Councilor's ballot shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1; and Ordinance No. 11-1251, Sec. 1.)

9.01.070 Emergency Succession

In the event of the death of the Council President or the declaration of a vacancy in that office, the Deputy of the Metro Council shall assume the duties of the Council President as provided for in Section 2.01 until a new Council President is elected or appointed.

(Ordinance No. 93-517B. Amended by Ordinance No. 95-602A, Sec. 3; Ordinance No. 02-977, Sec. 1.)

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CHAPTER 9.02

BALLOT MEASURES, INITIATIVE AND REFERENDUM

SECTIONS	TITLE
9.02.010	Definitions
9.02.020	Referrals by Metro Council
9.02.030	Prospective Petition
9.02.035	One Subject Determination
9.02.040	Ballot Title; Appeal
9.02.045	Explanatory Statement; Appeal
9.02.050	Petition and Circulation Requirements
9.02.060	Filing and Percentage Requirements; Verification
9.02.070	Election Dates
9.02.080	Election Procedure
9.02.090	Applicability of State Law

9.02.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Court" means the Circuit Court of the State of Oregon for the County of Multnomah.

(b) "Director of Elections" means the director of the Multnomah County Division of Elections, or the director's designees, or any officer subsequently performing the present duties of the director, or the designees of that officer.

(c) "Elector" means any legal voter of Metro.

(d) "Initiative" means a duly authorized command from the electors of Metro to allow the electors of Metro to determine legislation should be adopted.

(e) "Measure" means any Metro legislation, proposition or question.

(f) "Metro legislation" means any legislation which has been or lawfully may be enacted by Metro, and includes any amendment, revision or repeal of the Metro Charter, but does not include any proposition or question.

(g) "Proposition" means any request for voter approval of a property tax levy, tax base, general obligation bond measure, or any tax requiring voter approval pursuant to Section 11 of the Metro Charter, or other similar matter submitted to the electors

of Metro for the purpose of authorizing the imposition of any ad valorem real property tax.

(h) "Question" means any matter other than Metro legislation or a proposition including but not limited to an advisory matter submitted by the Council to the electors of Metro for approval or rejection.

(i) "Referendum" means a duly authorized command from the electors of Metro to require that Metro legislation adopted by the Metro Council be subject to approval of the electors of Metro before it shall become effective.

(j) "Referral" means an action taken by the Metro Council to submit any measure directly to the electors of Metro.

(k) "Regular election" means any election held on the same date as a regular biennial statewide primary or general election.

(l) "Special election" means any election held on a date other than a regular election date.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance 02-977, Sec. 1.)

9.02.020 Referrals by Metro Council

(a) The Metro Council may directly refer any measure to the electors for their approval or rejection, including Metro legislation, any proposition or any question, and may directly refer to the electors proposed amendments or revisions of the Metro Charter or parts thereof. Prior to submitting any revision of the Metro Charter to the voters, the Council shall conduct at least two (2) public hearings with the second (2nd) hearing to be held at least 28 days after the first hearing.

(b) The Council shall act to refer a measure by the adoption of a resolution. The resolution shall contain either directly or as an exhibit the measure referred to the electors, the ballot title, and any other material required by law.

(c) In the case of a Measure the Metro Council shall approve a ballot title complying with the requirements of Oregon laws and shall certify such ballot title to the Director of Elections.

(d) The Director of Elections, upon receiving a ballot title for a Metro measure referred by the Metro Council, shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the

ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in subsection (e) of this section.

(e) Any elector may petition the court to challenge the ballot title prepared by the Metro Council. Such petition must be filed with the court within seven (7) business days of the Metro Council's certification. Any person filing a petition of review with the court must file a copy of the challenge with the Director of Elections and the Chief Operating Officer and Metro Attorney not later than the end of the business day next following the date the petition is filed with the court. Nothing in this section is intended to invalidate a petition that is timely filed with the court.

(f) A measure shall be considered referred under this section as of the date the Metro Council certifies its ballot tile to the Director of Elections.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.030 Prospective Petition

(a) Prior to circulating a petition proposing an initiative or referendum on Metro legislation among the electors, the chief petitioners shall file a prospective petition with the Director of Elections, in such form as the Director of Elections shall prescribe or provide, showing:

(1) The signatures, printed names and mailing addresses of at least one (1) but not more than three (3) chief petitioners, all of whom must be electors of Metro;

(2) In the case of an initiative measure proposed for adoption, amendment, revision or repeal, and, where applicable, the title, ordinance number, and charter or ordinance section numbers proposed for amendment, revision or repeal; and

(3) In the case of referendum measures, the text of Metro legislation proposed for referral, and where applicable, the title, ordinance number or ordinance section numbers of Metro legislation proposed for referral.

(b) The Director of Elections shall inscribe the date of filing upon any prospective petition filed in the Director of Elections office.

(c) After a prospective petition for a referendum measure has been filed with the Director of Elections, and the Director of Elections has determined that the prospective petition complies with the requirements of this chapter, and other applicable law, the Director of Elections shall forthwith certify to one of the chief petitioners that petitions for the referendum measure proposed by the prospective petition may be circulated among the electors, in accordance with the procedures set forth in Section 9.02.050.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.035 One Subject Determination

(a) Not later than the fifth business day after receiving a prospective petition for an initiative measure, the Director of Elections shall determine in writing whether the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter.

(b) If the Director of Elections determines that the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter, the Director of Elections shall proceed as required in Section 9.02.040. The Director of Elections shall include in the publication required under Section 9.02.040(b) a statement that the initiative measure has been determined to meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter.

(c) If the Director of Elections determines that the initiative measure does not meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, or Sections 35 or 40 of the Metro Charter, the Director of Elections shall immediately notify the petitioner, in writing by certified mail, return receipt requested, of the determination.

(d) Any elector dissatisfied with a determination of the Director of Elections under subsection (a) of this section may petition the court of the judicial district in which the administrative office of Metro is located seeking to overturn the determination of the Director of Elections. If the elector is dissatisfied with a determination that the initiative measure meets the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, and Sections 35 and 40 of the Metro Charter, the petition must be filed not later than the seventh (7th) business day after the ballot title is filed with the Director of

Elections. If the elector is dissatisfied with a determination that the initiative measure does not meet the requirements of Article IV, Section 1(2)(d), of the Oregon Constitution, or Sections 35 or 40 of the Metro Charter, the petition must be filed not later than the seventh (7th) business day after the written determination is made by the Director of Elections.

(e) The review by the court shall be the first and final review and shall be conducted expeditiously to ensure the orderly and timely circulation of the petition.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.040 Ballot Title; Appeal

(a) Prior to the conclusion of the sixth (6th) business day next following the filing of a prospective petition which proposes an initiative measure and which complies with the requirements of this chapter, and other applicable law, the Director of Elections shall transmit two (2) copies to the Metro Attorney, who shall, within five (5) business days thereafter, prepare a ballot title for the measure proposed. The ballot title shall consist of:

(1) A caption of not more than 10 words which reasonably identifies the subject of the measure;

(2) A question of not more than 20 words which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(3) A concise and impartial statement of not more than 85 words summarizing the measure and its major effect.

After preparing the ballot title, the Metro Attorney shall immediately return one (1) copy of the prospective petition and title to the Director of Elections and shall immediately transmit one (1) copy of the prospective petition and title to one of the chief petitioners.

(b) The Director of Elections, upon receiving a ballot title for a Metro measure, shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title not later than the date referred to in subsection (c) of this section.

(c) Upon receiving the prospective petition and title from the Metro Attorney, the Director of Elections shall inscribe the date of receipt on it. Within seven (7) business days after that date, any elector may petition the court to challenge the ballot title prepared by the Metro Attorney. At the end of the seven (7) business-days period, or following the final adjudication of any challenge, the Director of Elections shall certify the ballot title as prepared by the Metro Attorney or as prescribed by the court, as the case may be, to one of the chief petitioners.

(d) Any person filing a petition of review with the court must file a copy of the challenge with the Director of Elections and the Chief Operating Officer not later than the end of the business day next following the date the petition is filed with the court. Nothing in this section is intended to invalidate a petition that is timely filed with the court.

(e) The procedures set forth in subsections (a) through (d) of this section for preparation of, and challenges to, ballot titles for initiative measures shall also apply to referendum measures. However, the completion of such procedures shall not be a pre-requisite to the circulation of petitions for referendum measures under Section 9.02.050, and ballot titles need not be stated on petitions circulated to propose referendum measures.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.045 Explanatory Statement; Appeal

(a) Explanatory statements for all Metro measures shall be prepared by the Metro Attorney and shall be filed with the Director of Elections. An explanatory statement shall be an impartial, simple and understandable statement of 500 words or less, explaining the measure and its effect. The explanatory statement for a measure referred by Metro or for a measure proposed by initiative or referendum petition shall be filed with the Director of Elections at the same time the ballot title for the measure is filed.

(b) Upon receipt of an explanatory statement, the Director of Elections shall publish in the next available edition of a newspaper of general circulation within the Metro Area a notice of receipt of the statement including notice that an elector may file a petition for review of the statement not later than the date referred to in subsection (c) of this section.

(c) Any elector dissatisfied with an explanatory statement for a Metro measure may petition the court stating the reasons

why the statement does not meet the requirements of subsection (a) of this section. The petition shall be filed not later than the seventh (7th) business day after the statement is filed with the Director of Elections. An elector filing a petition with the court shall also file a copy of the petition with the Chief Operating Officer and Metro Attorney not later than the end of the next business day following the date the petition is filed with the court. The court shall review the statement and measure, hear arguments, if any, and certify to the Director of Elections a statement for the measure which meets the requirement of subsection (a) of this section. Review by the court shall be first and final.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.050 Petition and Circulation Requirements

(a) After the requirements of subsection (c) of Section 9.02.030 have been met in the case of referendum measures, and after the requirements of Section 9.02.040 have been met in the case of initiative measures, the chief petitioners and any other persons eligible to circulate initiative and referendum petitions under state law may circulate a petition for the measure among the electors. Each copy of the petition so circulated shall consist of a cover page and signature sheet or sheets.

(b) The cover page shall state the names and mailing addresses of the chief petitioners, shall contain the information required by paragraph 2 of subsection (a) of Section 9.02.030 or paragraph 3 of subsection (a) of Section 9.02.030, and shall state the ballot title certified by the Director of Elections under subsection (c) of Section 9.02.040.

(c) Each signature sheet shall contain space for signatures of not more than 20 electors. Each elector signing the petition shall do so by affixing the elector's signature, the date of the signature, and by printing the elector's name, residence address and, if known, the elector's precinct number.

(d) Each signature sheet of an initiative petition shall contain the caption of the ballot title.

(e) Each signature sheet of a referendum petition shall contain the title, ordinance number or ordinance section numbers of Metro legislation proposed by referral.

(f) No signature sheet shall be circulated by more than one person. Each signature sheet shall contain a statement signed by the circulator that each elector who signed the sheet did so in

the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal voter of Metro and that the information placed on the sheet by each such elector is correct.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.060 Filing and Percentage Requirements; Verification

(a) The Director of Elections shall accept for signature verification in accordance with this chapter only petitions which comply with the requirements of this chapter and other applicable law.

(b) No petition shall be accepted for filing unless it contains at least the required number of verified signatures to submit the measure to the electors, as prescribed by subsections (g), (h) or (i) of this section.

(c) No initiative petition shall be accepted for signature verification more than six (6) months after the date of the Director of Elections' certification under subsection (c) of Section 9.02.040.

(d) Any petition to refer legislation adopted by the Metro Council must be submitted for verification not more than 90 days after Metro's adoption of such legislation, and no later than the effective date of the ordinance if the ordinance contains an emergency clause. Legislation adopted by the Metro Council is not subject to the referendum after the date it becomes effective or 90 days, whichever is sooner.

(e) An initiative or referendum petition shall not be accepted for signature verification if it contains less than 100 percent of the required number of signatures.

(f) Upon the acceptance of a petition, the Director of Elections shall verify the signatures thereon. Such verification may be performed by random sampling in a manner approved by the Secretary of the State of Oregon.

Within 15 days after the Director of Elections' acceptance of a petition, the Director of Elections shall certify to Metro whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to the electors and shall also state in the certificate the number of qualified signatures prescribed by subsections (g), (h) or (i) of this section to require the proposed measure to be

submitted to the electors. The petition shall be considered filed as of the date of the Director of Elections' certification.

(g) An initiative measure proposing the amendment or repeal of the Metro Charter, or parts thereof, shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 8 percent of the total number of votes cast in the Metro Area for all candidates for Governor of Oregon at the most recent previous general election at which the office of Governor was filled for a four-year term.

(h) An initiative measure proposing the adoption, amendment or repeal of any other Metro legislation, or parts thereof, shall be submitted to the electors in the number of qualified signatures on the petition therefor equals or exceeds 6 percent of the total number of votes cast in the Metro Area for all candidates for governor at the most recent previous general election at which the office of governor was filled for a four-year term.

(i) A referendum measure shall be submitted to the electors if the number of qualified signatures on the petition therefor equals or exceeds 4 percent of the total number of votes cast in the Metro Area for all candidates for governor of Oregon at the most recent previous general election at which the office of governor was filled for a four-year term.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 977, Sec. 1.)

9.02.070 Election Dates

(a) Upon receiving the Director of Elections' certificate that a petition has been filed with sufficient qualified signatures to require an initiative or referendum to be submitted to the electors under Section 9.03.060, the Metro Council shall call an election for submission of the measure to the electors. The Metro Council shall call the election no later than the next available general or primary election date that is not sooner than the 90th day after the date of the Director of Elections' certificate certifying sufficient signatures, but may call the election in its discretion at an earlier election date available under state law for which the filing deadlines may be met.

(b) In the event of a Metro Council referral of a measure under Section 9.03.020, the election shall be held on the election date specified by the Metro Council in the resolution referring the measure to the voters.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.080 Election Procedure

(a) Measures referred by the Metro Council shall be designated on the ballot "Referred to the People by the Metro Council."

(b) Measures proposed by referendum petition shall be designated on the ballot "Referred by Petition of the People."

(c) Measures proposed by initiative petition shall be designated on the ballot "Proposed by Initiative Petition."

(d) Within 20 days following any election, the Director of Elections shall certify the election results to the Metro Council. The Metro Council shall thereupon canvass the vote and enter its proclamation of the results in the Council records.

(e) Metro legislation adopted by the electors shall take effect upon the certification of the results of the election at which it is adopted after the election, unless such measure expressly provides a later effective date. The results of elections on propositions or questions shall be effective upon the proclamation of the results.

(Ordinance No. 93-517B, Sec. 1. Amended by Ordinance No. 02-977, Sec. 1.)

9.02.090 Applicability of State Law

Applicable provisions of state law, dealing with any initiative and referendum procedures or other election matters regulated by this chapter, shall be controlling where there is a direct and irreconcilable conflict with the provisions of this chapter. However, the provisions of this chapter shall be given full force and effect and shall be construed liberally in order that they shall be found not to conflict with provisions of state elections law and shall be considered paramount relating to matters subject to regulation and legislation by the Metro Council.

(Ordinance No. 93-517B, Sec. 1.)

TITLE X

METRO PARKS, CEMETERIES AND NATURAL AREAS

CHAPTERS	TITLE
10.01	Metro Parks and Nature Regulations
10.02	Park Fees
10.03	Conservation Easements
10.04	Pioneer Cemetery Properties

CHAPTER 10.01

METRO PARKS AND NATURE REGULATIONS

Section	Title
10.01.010	Purpose
10.01.020	Definitions
10.01.030	Policy
10.01.040	Enforcement Authority/Park Rules
10.01.050	Park Property Destruction and Other Property Prohibitions
10.01.060	Trees, Shrubbery and Lawns Prohibitions
10.01.070	Animals, Birds and Fish Prohibitions
10.01.080	Pollution of Waters and Soils Prohibited
10.01.090	Refuse and Trash Prohibitions
10.01.100	Traffic Prohibitions
10.01.110	Parking Prohibitions
10.01.120	Bicycle Restrictions
10.01.130	Bathing and Swimming Restrictions
10.01.140	Blue Lake Boating Restrictions
10.01.150	Fishing Prohibited in Swimming Areas
10.01.160	Hunting Prohibited
10.01.170	Camping Prohibitions
10.01.180	Prohibited Games
10.01.190	Horseback Riding Restrictions
10.01.200	Consumption of Alcoholic Beverages Limited
10.01.210	Fireworks and Explosives Prohibited
10.01.220	Domestic Animals Restricted
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10.01.320	Posting of Park Rules
10.01.330	Closed Areas
10.01.340	Lost and Found Articles
10.01.350	Permits for Camping, Group Picnics and Vending
10.01.360	Special Use Permit
10.01.370	Permit Revocation
10.01.380	Boats and Moorages
10.01.390	Enforcement Personnel
10.01.400	Citation, Ejectment and Exclusion, Hearing
10.01.410	Seizure of Property

10.01.420 Hearing Regarding Seized Property
10.01.430 Other Laws Applicable
10.01.440 Severability

Repealed

10.01.600 Penalties
(Repealed Ordinance 15-1366.)

10.01.610 Bail and Fine Collection
(Repealed Ordinance 15-1366.)

10.01.010 Purpose

The purpose of this chapter is to provide for regulations governing the use of Metro owned or operated Parks and Nature facilities by members of the public in order to provide protection for wildlife, plants and property, and to protect the safety and enjoyment of any person visiting these facilities.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.020 Definitions

As used in this chapter, unless the context requires otherwise:

(a) "Council" shall have the meaning assigned thereto in Metro Code Section 1.01.040(a).

(b) "Director" means the person or persons designated by the Chief Operating Officer to serve as the Director of Metro's Parks and Nature Department or the Director's designee.

(c) "Metro Code" means the Code of Metro.

(d) "Park" means a forest, reservation, playground, beach, natural area, recreation center, cemetery, or any other similar area owned, operated or managed by Metro, through its Parks and Nature Department, and devoted to active or passive recreation.

(e) "Park rules" means rules adopted by the Director pursuant to Section 10.01.040 of this chapter.

(f) "Person" shall have the meaning assigned thereto in Metro Code Section 1.01.040(f).

(g) "Public" means any person other than a Parks and Nature Department employee.

(h) "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled, including a bicycle, and includes any trailer in tow of any size, kind

or description, but does not include baby carriages or vehicles in the service of Metro Parks and Nature.

(i) "Parks and Nature Department employee" means any paid employees of the Parks and Nature Department, any other paid employees of Metro performing tasks or functions at any park at the request or direction of either the Director or the Metro Council, volunteers performing functions and duties assigned or authorized by the Director, and any contractors or agents of the Parks and Nature Department carrying out their duties or obligations to the Parks and Nature Department.

(Ordinance 96-659A, Sec. 1.; Ordinance 02-978, Sec. 1.; Ordinance 15-1366.)

10.01.030 Policy

The Council has determined that it is necessary to adopt these Code provisions in order to insure the efficient operation, protection and maintenance of Metro's Parks and to protect the health, safety and welfare of the public; therefore, this chapter shall be liberally construed to effectuate this purpose.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.040 Enforcement Authority/Park Rules

(a) The Director shall have the authority to enforce all of the provisions of this chapter, including but not limited to the authority to enforce any park rules adopted pursuant to this chapter.

(b) The Director shall have the authority to adopt park rules which are not inconsistent with the provisions of this chapter, including but not limited to park rules governing fees. Park rules shall be in writing, shall be posted as otherwise required by this chapter, and shall be filed with the Metro Council.

(c) No person shall violate any park rule which has been adopted by the Director pursuant to this chapter.

(Ordinance 96-659A, Sec. 1.)

10.01.050 Park Property Destruction and Other Property Prohibitions

No person shall, within the boundaries of any Park:

(a) Willfully mark, deface, disfigure, injure, tamper with, displace or remove any buildings, rest rooms, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether

temporary or permanent, monuments, stakes, posts or other boundary markers, other structures or equipment, recreation facilities or park property or appurtenances whatsoever, either real or personal.

(b) Dig or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(c) Damage or destroy any park tree, shrub, plant, structure or appurtenance through the use of a motor vehicle, whether intentional or not.

(d) Use any metal or mineral locating devices of any kind.

(Ordinance 96-659A, Sec. 1.)

10.01.060 Trees, Shrubbery and Lawns Prohibitions

No person shall, within the boundaries of any park:

(a) Damage, cut, carve, transplant, remove any tree or plant or any part of any tree or plant, regardless of whether the tree or plant is dead or alive. Use of chain saws is prohibited.

(b) Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for those purposes.

(c) Plant any tree or shrub in a park or cemetery area without the written permission of the Director.

(Ordinance 96-659A, Sec. 1.)

10.01.070 Animals, Birds and Fish Prohibitions

No person shall, within the boundaries of any park:

(a) Hunt, molest, harm, frighten, kill, trap, chase, shoot or throw missiles at any bird, fish or other living creature or remove or have in possession any wild animal, bird, fish, or reptile or the eggs or nest of any reptile or bird. However, angling is permitted in designated areas in accordance with applicable rules and regulations as promulgated by the Oregon Department of Fish & Wildlife.

(b) Give or offer to give to any animal or bird any tobacco, alcohol or other noxious substances.

(Ordinance 96-659A, Sec. 1.)

10.01.080 Pollution of Waters and Soils Prohibited

No person shall throw, discharge or otherwise place or cause to be placed in the soils of any Metro park or waters of any fountain, pond, lake, river, stream, bay or other body of water in or adjacent to any park, any matter or thing, liquid or solid, which will or may result in the pollution of those waters or soils.

(Ordinance 96-659A, Sec. 1.)

10.01.090 Refuse and Trash Prohibitions

No person shall deposit, dump, place or leave any rubbish, bottles, cans, garbage or refuse of any type regardless of its source in a park area, except refuse, garbage or litter occasioned through use of those areas which shall be deposited in refuse receptacles provided for that purpose.

(Ordinance 96-659A, Sec. 1.)

10.01.100 Traffic Prohibitions

No person shall, within the boundaries of any park:

(a) Fail to comply with all applicable provisions of the state motor vehicles traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

(b) Fail to obey all authorized enforcement personnel and park employees, which persons hereby are authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent to the parks in accordance with the provisions of this chapter and such supplementary rules as may be issued by the Director.

(c) Fail to observe and obey all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.

(d) Drive any vehicle on any area except the park roads or parking areas or such other areas as may be specifically designated by the Director.

(Ordinance 96-659A, Sec. 1.)

10.01.110 Parking Prohibitions

No person shall, within the boundaries of any Property:

(a) Park a vehicle in other than an established or designated parking area or not comply with the posted directions and

with instructions of any attendant who may be present at an established or designated parking area.

(b) Double park any motor vehicle on a road or parkway unless directed by a park attendant.

(c) Leave any vehicle parked in any park area after normal park operation hours without first obtaining permission from authorized enforcement personnel.

(d) Leave any vehicle parked on a boat ramp except while loading or unloading a boat.

(Ordinance 96-659A, Sec. 1.)

10.01.120 Bicycle Restrictions

No person shall, within the boundaries of any park:

(a) Ride a bicycle on other than a vehicular road or path designed for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.

(b) Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit. Bicycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists shall at all times operate their bicycles with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking and pass to the right of any vehicles they may be meeting.

(c) Ride a bicycle on any road between 30 minutes after sunset and 30 minutes before sunrise without an attached headlight plainly visible at least 200 feet in front of, and without a red taillight or reflector plainly visible from at least 200 feet from the rear of the bicycle.

(d) Use bikes on trails or other areas not specifically designated for such use.

(Ordinance 96-659A, Sec. 1.)

10.01.130 Bathing and Swimming Restrictions

No person shall, within the boundaries of any park:

(a) Swim, bathe or wade in any waters or waterways in or adjacent to Blue Lake Park, except in such waters and at such times and places as are designated and in compliance with this chapter or rules adopted under this chapter.

(b) Allow a child under the age of five (5) to swim, bathe or wade in Blue Lake.

(c) Construct or install rope swings adjacent to waterways in any park area.

(Ordinance 96-659A, Sec. 1.)

10.01.140 Blue Lake Boating Restrictions

Except as provided in subsections (a) through (d), no person shall bring into or launch any watercraft of any type from Blue Lake Park. Boating activities shall be in accordance with applicable rules of the State of Oregon.

(a) Watercraft belonging to residents whose property adjoins Blue Lake. Such watercraft shall be identified by the current decal and number of the Interlachen Homeowners Association.

(b) Watercraft for rent at the Park.

(c) Privately-owned watercraft between October 1st and April 30th of each year provided that they shall not exceed 14 feet in length (17 feet for canoes), and 3.0 horsepower in motor capability for the purpose of angling in accordance with rules promulgated by the Oregon Department of Fish and Wildlife.

(d) As allowed by the Director for special events or other special purposes.

(Ordinance 96-659A, Sec. 1.)

10.01.150 Fishing Prohibited in Swimming Areas

No person shall fish, within the boundaries of any park, in any designated swimming area.

(Ordinance 96-659A, Sec. 1.)

10.01.160 Hunting Prohibited

Hunting is prohibited.

(Ordinance 96-659A, Sec. 1; Ordinance 10-1230, Sec. 3)

10.01.170 Camping Prohibitions

No person shall, within the boundaries of any park:

(a) Camp overnight or longer without first obtaining a camping permit.

(b) Camp longer than five (5) consecutive days in any specific park.

(c) Camp for more than 10 days in any 30-day period in any specific park.

(d) Camp at any time or in any place except as specifically provided for in a camping permit.

(e) Camp if he/she is under the age of 18, unless he/she is accompanied by an adult.

(f) Camp in nondesignated areas.

(g) Allow more than eight (8) people to occupy a site.

(h) Ignore the 10:00 p.m. to 6:00 a.m. quiet time period.

(i) Check out after 2:00 p.m. without paying the fee for an additional day.

(Ordinance 96-659A, Sec. 1.)

10.01.180 Prohibited Games

No person shall, within the boundaries of any park, take a part in or abet the playing of any games involving thrown or otherwise propelled objects such as stones, arrows, sharp objects, vehicles, javelins or power-projected model airplanes or boats except in areas set apart for those forms of recreation.

(Ordinance 96-659A, Sec. 1.)

10.01.190 Horseback Riding Restrictions

No person shall, within the boundaries of any park, ride a horse except on designated bridle trails. Horses shall be unloaded at designated areas only, shall be thoroughly broken and properly restrained, shall be ridden with due care, and shall not be allowed to graze or go unattended. Horse waste shall be removed by the owner when such waste occurs in an area designated for horse trailer parking.

(Ordinance 96-659A, Sec. 1.)

10.01.200 Consumption of Alcoholic Beverages Limited

(a) Except as provided in subsections (b) and (c) of this section, no person shall bring into or consume alcoholic beverages in any park, provided, however, that the Council may, from time to time, designate certain parks or park areas where consumption with meals.

(b) The Director may, by issuance of a permit, allow the sale of alcoholic beverages on the premises of designated facilities when duly licensed by the Oregon Liquor Control Commission.

(c) After the proper permit(s) are secured from the Director, alcohol may be consumed in designated areas at Blue Lake Park, Oxbow Park and Howell Territorial Park.

(Ordinance 96-659A, Sec. 1.)

10.01.210 Fireworks and Explosives Prohibited

No person shall, within the boundaries of any park, bring, or have in possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedoes, rockets or other fireworks or explosives or inflammable material, or discharge them or throw them into any park from any adjacent land or highway. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. The Director, however, may issue a special fireworks permit in accordance with state law.

(Ordinance 96-659A, Sec. 1.)

10.01.220 Domestic Animals Restricted

Except for "dog guides," "dog guide trainees," "hearing aid dogs," "hearing aid dog trainees," "assistance animals," and "assistant animal trainees," all as defined by ORS Chapter 659A.103 et seq., and except as required by any other law, no person shall bring a dog or other domestic animal into any park, on or off leash or within a motor vehicle, except as may be specifically allowed by the Director.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.230 Soliciting Prohibited

No person shall, within the boundaries of any park, solicit for any public or private purpose.

(Ordinance 96-659A, Sec. 1.)

10.01.240 Fires Limited

No person shall, within the boundaries of any Park:

(a) Build or attempt to build a fire except in such areas and under such rules as may be designated by the Director. All fires shall be completely extinguished after use.

(b) Drop, throw or otherwise scatter lighted matches, cigarettes or cigars, tobacco paper or other inflammable material within any park or on any highway, road or street abutting and contiguous to any park.

(Ordinance 96-659A, Sec. 1.)

10.01.250 Game of Chance Prohibited

No person shall, within the boundaries of any park, gamble or participate in or abet any game of chance except as approved by the Director in writing and in compliance with the statutes of the State of Oregon.

(Ordinance 96-659A, Sec. 1.)

10.01.260 Violent and Excessively Loud Conduct Prohibited

No person shall, within the boundaries of any park, engage in, promote, instigate, encourage, aid or abet fighting or similar violent conduct which would threaten the physical well-being of the public or a park employee, or cause excessive amplified or nonverbal noise.

(Ordinance 96-659A, Sec. 1.)

10.01.270 Exhibiting Permits Required

No person shall:

(a) Fail to produce and exhibit any permit from the Director the person claims to have, upon request of any authorized enforcement personnel or park employee who shall desire to inspect the permit for purpose of enforcing compliance with any ordinance or rule.

(b) Fail to clearly display at all times, while within the boundaries of any park, any required proof of entrance and /or parking fee payment on the dashboard of the person’s vehicle so that such proof is plainly visible from the exterior of the vehicle.

(Ordinance 96-659A, Sec. 1.)

10.01.280 Interference with Permittees Prohibited

No person shall disturb or interfere unreasonably with any person or party occupying any park area or participating in any activity in a park under the authority of a permit.

(Ordinance 96-659A, Sec. 1.)

10.01.290 Vending and Peddling Restricted

Except as expressly provided in this section, no person shall, within the boundaries of any park, expose, advertise or offer for sale or rent any article or thing, or station or place any stand, cart or vehicle for the transportation, sale or display of any article or thing, unless the person is acting by and under the written authority of the Director.

(Ordinance 96-659A, Sec. 1.)

10.01.300 Signs Restricted

No person shall, within the boundaries of any park:

(a) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, or cause to be erected any sign whatsoever, except upon permission of the Director, unless the person is a regularly licensed concessionaire acting by and under the written authority of the Director.

(b) Distribute or otherwise place any non-authorized printed material on any vehicle parked in a park facility.

(Ordinance 96-659A, Sec. 1.)

10.01.310 Park Hours

Park hours of operation shall be as posted, except for unusual or unforeseen circumstances and emergencies. The hours of operation for Parks not posted are legal sunrise to legal sunset.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.320 Posting of Park Rules

The Rules and provisions for use and administration of parks, notice of those rules or summaries of those Rules shall be kept posted within the main entrance of each park or at suitable other locations.

(Ordinance 96-659A, Sec. 1.)

10.01.330 Closed Areas

All or any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals, daily or otherwise, and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(Ordinance 96-659A, Sec. 1.)

10.01.340 Lost and Found Articles

The finding of lost articles by park employees shall be reported to the Director or his/her designee, who shall make every reasonable effort to find and return lost articles and dispose of unclaimed articles as prescribed by law.

(Ordinance 96-659A, Sec. 1.)

10.01.350 Permits for Camping, Group Picnics and Vending

A permit shall be obtained as indicated before participating in the following park activities:

(a) In those parks where overnight camping is allowed, a permit shall be obtained from the park attendant at the park.

(b) A permit must be secured from the Parks and Nature main office for any organized event consisting of more than 25 persons.

(c) Before a person may act as a concessionaire at a park, the person shall secure an executed contract in compliance with Metro’s standard contracting procedures.

(d) A permit for concessions at special events which are intended to raise funds for Metro parks purposes may be issued by the Director.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.360 Special Use Permit

A special use permit shall be obtained prior to pursuing the following activities in any park:

(a) Movie, commercial or television filming, photography and production.

(b) Fishing, water-skiing, track or any other organized sporting event.

(c) Special educational events or festivals, except those specifically hosted by Metro.

(d) Amplified sound, pony rides, dunk tanks, use of alcohol with a reservation permit or any other type of special use.

(e) Any other organized event or activity involving 25 persons or more except for picnics where a reservation has been secured.

(Ordinance 96-659A, Sec. 1.)

10.01.370 Permit Revocation

The Director or his/her designee shall have the authority to revoke a permit upon a finding of violation of any rule, ordinance, statute, or any special use or reservation permit provision.

(Ordinance 96-659A, Sec. 1.)

10.01.380 Boats and Moorages

No person shall:

(a) Disobey any applicable signage posted in boat launching, moorage and beach areas.

(b) Moor a boat longer than 30 minutes on boarding docks or 12 hours on transient docks.

(c) Improperly secure a boat in such a manner as to cause personal injury or damage to park property or resources.

(d) Swim, fish or water ski in the immediate area of or from boat moorage docks.

(Ordinance 96-659A, Sec. 1.)

10.01.390 Enforcement Personnel

(a) The Director and the Director’s authorized representatives shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(b) No person shall harass, obstruct, interfere with or disobey the direction of any authorized enforcement personnel or park employee carrying out the enforcement of this chapter or rules adopted under this chapter.

(Ordinance 96-659A, Sec. 1.)

10.01.400 Citation, Ejectment and Exclusion, Hearing

The Director and authorized enforcement personnel shall:

(a) Have the authority to arrest, cite in lieu of arrest, cite for civil penalties or eject from the park any person acting in violation of this chapter or the laws of the State of Oregon.

(b) Exclude from the park any person acting in violation of this chapter or the laws of the State of Oregon.

(c) Exclusions exceeding one (1) year shall be approved by the Director.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.410 Seizure of Property

The Director and any authorized enforcement personnel shall have the authority to seize and confiscate any property, thing or device, including but not limited to motor vehicles and chain saws, used in violation of this chapter.

(Ordinance 96-659A, Sec. 1.)

10.01.420 Hearing Regarding Seized Property

(a) Persons who have had any personal property, thing or device confiscated under Section 10.01.410 may request a hearing to appeal the confiscation by sending a written request for hearing to the Director by registered or certified mail.

(b) The hearing shall be conducted in accord with the applicable contested case procedures set forth in the Metro Code.

(c) Any property, thing or device which was not wrongfully confiscated shall become the property of Metro and shall be disposed of in a manner to be determined by the Director.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.01.430 Other Laws Applicable

This chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this chapter, including but not limited to City or County ordinances containing regulations and prohibitions pertaining to firearms and dangerous or deadly weapons.

(Ordinance 96-659A, Sec. 1.; Ordinance 10-1230, Sec. 4)

10.01.440 Severability

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portion of this chapter.

(Ordinance 96-659A, Sec. 1.)

CHAPTER 10.02

PARK FEES

Section	Title
10.02.010	Purpose and Authority
10.02.020	Park Fees
10.02.030	Suspension of Fees
10.02.040	Park Use Without Required Fee Prohibited
	Repealed
10.02.050	Fees for Memorials and Cemeteries (Repealed Ordinance 04-1038A, Sec. 2.)
10.02.100	Penalties (Repealed Ordinance 15-1366.)
10.02.110	Bail and Fine Collection (Repealed Ordinance 15-1366.)

10.02.010 Purpose and Authority

It is the purpose of this chapter to establish park fees pursuant to Metro Code Section 10.01.010.

(Ordinance 96-659A, Sec. 1.)

10.02.020 Park Fees

Except as otherwise set forth herein, Park Fees shall be set and adjusted by the Metro Council.

The following fees shall be charged and collected by Metro for and prior to the following park uses and activities:

(a) Parking fees at Blue Lake Park and Oxbow Park shall be $5.00 per motorized vehicle on all days and $7.00 per bus on all days.

(b) Boat launching and/or parking fees at the M. James Gleason Boat Ramp shall be $5.00 and fees at the Chinook Landing Marine Park shall be $5.00 per motorized vehicle on all days.

(c) The fee for annual parking passes in lieu of daily parking fees, launching and/or parking fees at Blue Lake Park, Oxbow Park, Chinook Landing, and M. James Gleason Boat Ramp shall be as follows:

(1) Regular: $40.00 per year (January 1 through December 31)

(2) Seniors: $30.00 per year (January 1 through December 31)

(3) Low-Income/Disabled: $10.00 per year (January 1 through December 31)

(d) Reservation fees for shelters and reservable picnic areas at Blue Lake and Oxbow Parks shall be set and adjusted by the Chief Operating Officer.

(e) Fees for alcohol permits at Blue Lake and Oxbow Parks shall be set and adjusted by the Chief Operating Officer.

(f) Overnight camping fees at Oxbow Park, including fees for nightly use of overnight group camps at Oxbow Park by nonprofit and youth organizations and fees for additional vehicles, shall be set and adjusted by the Chief Operating Officer. Permit must be displayed. Each vehicle must pay parking fee on initial day of entry.

(g) Fees for special events shall be set and adjusted by the Chief Operating Officer.

(h) Except for use by Metro, the rental rates and security deposit for “The Lake House” at Blue Lake Park shall be set and adjusted by the Chief Operating Officer.

(i) Parking fees at Blue Lake Park and Oxbow Park shall be waived for any police officer (officers' fees are waived also at Chinook Landing Marine Park and the Gleason Boat Ramp) or Metro employee who presents valid current identification at the park entrance. Fee waivers shall not apply to any special events or other facilities.

(j) Parking fees at Blue Lake Park, Oxbow Park, Chinook Landing, and M. James Gleason Boat Ramp, and camping fees at Oxbow Park, shall be waived for any disabled veteran who presents valid current photo identification and an Oregon State Parks Special Access Pass for Veterans with Service Connected Disabilities ID Card and green placard issued by Oregon State Parks in said veteran’s vehicle in full view on the dashboard or hanging from the rear-view mirror.

Fee waivers shall not apply to fees for the use of other facilities.

(Ordinance 96-659A, Sec. 1.; Ordinance 98-722, Sec. 1; Ordinance 01-894, Sec. 1; Ordinance 02-978, Sec. 1; Ordinance 03-1008; Ordinance 04-1047, Sec. 1; Ordinance 06-1109; Ordinance 07-1166; Ordinance 09-1211A; Ordinance 15-1366.)

10.02.030 Suspension of Fees

Collection of any fee under Section 10.02.020 may be waived or suspended by order of the Director of Parks and Nature or his/her designee for such period of time as the order may provide. The Director shall develop and implement a written policy to guide decisions related to the waiver or suspension of fees.

(Ordinance 96-659A, Sec. 1.; Ordinance 15-1366.)

10.02.040 Park Use Without Required Fee Prohibited

No person shall engage in a park activity for which there is a fee without first paying the required fee. Any person engaged in a park activity for which there is a fee shall be required to produce and exhibit the receipt from the Director showing fee payment, which the person claims to have, upon request of any authorized person who shall desire to inspect the receipt for the purpose of enforcing compliance with this chapter or rules promulgated pursuant thereto.

(Ordinance No. 96-659A, Sec. 1.)

CHAPTER 10.03

CONSERVATION EASEMENTS

SECTIONS TITLE

10.03.01 Purpose and Authority

The purpose of this chapter is to encourage the voluntary retention and protection of the natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, and preserving the historical, architectural, archeological, or cultural aspects of real property by private property owners through sale, donation, or dedication of conservation easements to Metro. Metro may acquire conservation easements in accordance with law.

(Ordinance No. 97-714, Sec. 1. Amended by Ordinance No. 02-978, Sec. 1 and Ordinance No. 11-1254, Sec. 1.)

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CHAPTER 10.04

PIONEER CEMETERY PROPERTIES

SECTIONS	TITLE
10.04.010	Purpose
10.04.020	Policy
10.04.030	Definitions
10.04.040	Description of Pioneer Cemeteries
10.04.050	Operation and Administration
10.04.055	Enforcement Authority
10.04.060	Cemetery Hours of Operation
10.04.065	Other Uses
10.04.070	Sale of Interment/Inurnment Rights and Burial Services
10.04.080	Multi-Interment/Inurnment Right Sales Restricted
10.04.090	Transfer of Certificate of Interment and Inurnment Rights
10.04.100	Full Body Grave Dimensions - Burial Limits
10.04.110	Outer Burial Containers Required
10.04.120	Disinterment
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10.04.135	Personal Effects and Mementos Prohibited
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10.04.150	Markers
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10.04.170 Marker, Monument, Memorial Repair Restricted

10.04.180 Removal of Markers, Monuments, Memorials Prohibited

10.04.185 Cemetery Errors and Irregularities

10.04.190 Rates and Fees for Interment and Inurnment Rights, Burial Services and Perpetual Care Fund

10.04.220 Historical Research Requests

10.04.230 Other Laws Applicable

* Formerly “Pioneer Cemeteries” 10.04.010 to 10.04.060, Ordinance No. 04-1038A, Sec. 1., effective 6/24/04; repealed and replaced by Ordinance No. 12-1286.

** Metro Code Chapter 10.04, “Pioneer Cemetery Properties,” Ordinance No. 12-1286, Sec. 1, adopted October 4, 2012, effective January 2, 2013.

10.04.010 Purpose

The purpose of this chapter is to provide regulations controlling the operation of Metro owned and operated Pioneer Cemeteries and governing the use of these Cemeteries by members of the public in order to protect and preserve the Pioneer Cemeteries, the Graves and the Remains of those interred therein.

10.04.020 Policy

The Metro Council has determined that it is necessary to adopt these code provisions in order to ensure the long-term stability of Metro’s cemetery operations, which shall be achieved by Cemeteries being operated as follows:

(a) In compliance with applicable state laws;

(b) As community assets;

(c) In a manner that will maximize public financial benefit and long-term stability; and

(d) To protect and preserve their historically significant nature.

All four above objectives are to be considered equally important in the management of Metro's Pioneer Cemeteries.

10.04.030 Definitions

For the purposes of this chapter unless the context requires otherwise, the following terms shall have the meanings indicated:

(a) "Advance Sale" means the sale and purchase of an Interment Right to a predetermined Grave in advance of use for any person to whom the owner designates for Burial in the predetermined Grave.

(b) "At-Need" means at the time of death sale of Graves/plots, services, memorials and materials which are to be delivered immediately or upon delivery to the Cemetery for immediate Interment. Graves/plots are At-Need items due to their purchase being an immediate addition of an asset to one's estate.

(c) "Burial" means the placement of Human Remains in a Grave, in accord with state law and regulations.

(d) "Burial Services" means the opening and closing of the Grave in accord with state law and regulations, including excavation and fill, the provision and placement of a concrete liner or vault and any overtime charges that apply.

(e) "Cemetery," "Pioneer Cemeteries," and "Cemeteries" means those certain parcel(s) of real property set forth in section 10.04.030, designated, owned and operated by Metro for the disposition of Human Remains by any one or the combination of more than one of the following:

- A Burial place for ground or earth Interments, either casket or cremation.
- A mausoleum or crypt Interments.
- A columbarium or Interment of Cremated Remains.

(f) "Certificate of Interment/Inurnment Rights" or "Certificate" is a perpetual right to use property for burial purposes. The fee title of the property is without possession of any estate or interest in the land and all rights of ownership therein remain with Metro.

(g) "Cremated Remains" means the remains of a cremated human body after the completion of the cremation process.

(h) “Contract of Purchase” or “Contract” is an agreement between Metro and the purchaser of Burial Services or an Interment/Inurnment Right to a Grave space or Niche.

(i) “Disinterment” is the removal of Human Remains from a Grave space as defined in ORS 97.220.

(j) “Family Plot” means a group of contiguous Graves sold for the purpose of the Interment or Inurnment of related individuals as set forth and governed by ORS 97.560-650.

(k) “Grave” means a space of ground in a Cemetery used or intended to be used for Interment or Inurnment.

(l) “Human Remains” or “Remains” are the body of a deceased person in any stage of decomposition.

(m) “Interment” is the disposition of Human Remains by entombment or Burial in a place used or intended to be used and dedicated for Cemetery purposes.

(n) “Inurnment” is the placement of cremated Human Remains by entombment or Burial in a place used or intended to be used and dedicated for Cemetery purposes.

(o) “Marker” means a flat Grave tablet or headstone placed flush to the ground, identifying a Grave or Graves.

(p) “Memorial” means a nameplate or inscription identifying a crypt or Niche, or any other improvement or permanent structure intended to identify the location of a Grave or Graves other than a Marker or a Monument.

(q) “Monument” means an upright or vertical headstone or tombstone identifying a Grave or Graves.

(r) “Niche” means a space in a structure to place cremated Human Remains of one or more persons.

(s) “Outer Burial Container” is a concrete or composite material container which is buried in the ground to provide outer protection and into which Human Remains or Cremated Remains are placed for Burial purposes.

(t) “Perpetual Care Fund” is a special account set aside for holding of funds used for the required perpetual maintenance of the Cemetery grounds.

10.04.040 Description of Pioneer Cemeteries

The areas dedicated for Interment purposes by Metro shall consist of the following Cemeteries:

(a) Brainard Cemetery located at NE 90th Ave. and NE Glisan St., Portland

(b) Columbia Pioneer Cemetery located at NE Sandy Blvd. and NE 99th Ave., Portland

(c) Douglass Pioneer Cemetery located at Hensley Road and SE 262nd Avenue, Troutdale

(d) Escobar Cemetery located at SW Walters Road and Littlepage Road, Gresham

(e) Gresham Pioneer Cemetery located at SW Walters Road, Gresham

(f) Grand Army of the Republic Cemetery located at SW Boones Ferry Road and Palatine Road, Portland

(g) Jones Cemetery located at SW Hewitt Blvd. and SW Humphrey Blvd., Portland

(h) Lone Fir Cemetery located at SE 26st Ave. and SE Stark St., Portland

(i) Mt. View-Corbett Cemetery located at Smith Road and Evans Road, Corbett

(j) Mt. View-Stark Cemetery located at SE Stark Street and SE 257th Street, Gresham

(k) Multnomah Park Cemetery located at SE 82nd Ave. and SE Holgate Blvd., Portland

(l) Pleasant Home Cemetery located at Bluff Road and Pleasant Home Road, Gresham

(m) Powell Grove Cemetery located at NE Sandy Blvd. and NE 122nd Ave., Portland

(n) White Birch Cemetery located at SW Walters Road, Gresham

10.04.050 Operation and Administration

Metro Cemeteries shall be operated and maintained in accordance with Metro Code Title 10.01 and this chapter.

10.04.055 Enforcement Authority

(a) The Chief Operating Officer or designee shall have the authority to enforce all of the provisions of this chapter, including but not limited to the authority to enforce any rules and regulations established pursuant to this chapter.

(b) The Chief Operating Officer or designee shall have the authority to establish rules and regulations governing the Pioneer Cemeteries consistent with the provisions of this chapter, including but not limited to rules governing Interment, Inurnment, and fees. Said rules shall be in writing, shall be posted on Metro’s website and shall be filed with the Metro Council.

(c) No person shall violate any rule or regulation which has been established by the Chief Operating Officer pursuant to this chapter. Said violation shall be subject to enforcement and penalties as set forth in Chapters 10.01.400 and 10.01.600.

(d) The acts of Metro elected officials, employees, volunteers, interns, contractors and other agents constituting official duties, and other acts officially authorized by Metro by agreement, special use permit, or otherwise in writing shall not be deemed to violate this chapter or rules established pursuant hereto.

10.04.060 Cemetery Hours of Operation

(a) Metro’s Cemeteries are open from 7:00am to legal sunset. Hours of operation will be posted at each Cemetery.

(b) Entering or remaining in a Cemetery outside of normal operating hours without obtaining prior authorization from Metro is a violation subject to Ejectment and Exclusion from the Cemetery as set forth in Chapter 10.01.400 and/or the Penalties set forth in Chapter 10.01.600.

(c) Interments and Inurnments shall take place between the hours of 8:00 am and 3:30 pm daily, with the exception of Saturdays, Sundays and legal holidays. Interments and Inurnments

may be made outside of these hours at the discretion of the Chief Operating Officer, for an additional fee.

10.04.065 Other Uses

Uses other than Interment/Inurnment, Grave visitation, passive recreation, and historical research are prohibited unless specifically provided by Special Use Permit issued pursuant to Metro Chapter 10.01.360.

10.04.070 Sale of Interment/Inurnment Rights and Burial Services

(a) Interment/Inurnment Rights to a Grave may be sold by Metro both in advance (Advance-Sale) or At-Need, by Contract of Purchase. Purchasers shall pay the full fee for Interment/Inurnment Rights on the date of sale. Upon payment, Metro shall issue the purchaser a Certificate of Interment/Inurnment Rights.

(b) Burial Services and goods shall be sold At-Need through a Contract of Purchase.

(c) Fees and charges for Burial Services and goods must be fully paid before Interment/Inurnment will be permitted.

(d) Metro shall retain ownership and control of all Graves or Niches sold, subject to the terms of the Certificate of Interment/Inurnment Rights.

10.04.080 Multi-Interment/Inurnment Right Sales Restricted

(a) Except as set forth in this chapter 10.04.080(b and c), the sale by Metro of a group of Interment/Inurnment Right Certificates is prohibited.

(b) A group of contiguous Interment/Inurnment Right Certificates for contiguous Graves may be sold to one family or individual for the purposes of creating a Family Plot.

(c) A group of Interment/Inurnment Right Certificates other than a Family Plot may be sold upon the adoption of a resolution by the Metro Council approving an agreement establishing terms,

including the rates and terms of resale. A one-time administrative fee set at the discretion of the Chief Operating Officer or designee shall be charged in addition to regular fees and rates.

10.04.090 Transfer of Certificate of Interment and Inurnment Rights

(a) Interment/Inurnment Rights, whether conveyed by the Pioneer Cemeteries to the recipient by Deed, Certificate or other means, cannot be sold, transferred, bartered, exchanged or assigned (hereafter "Transfer(red)") to any other person or entity without the prior written consent of the Chief Operating Officer or designee, in accordance with Oregon Revised Statutes Chapter 97 and as set forth in section 10.04.070.

(b) In the event an owner of an Interment/Inurnment Right seeks permission from Metro to Transfer an Interment/Inurnment Right, Metro shall have the first right to buy back said Interment/Inurnment Right from the owner for the price paid when the Interment/Inurnment Right was originally sold.

(c) No attempted Transfer of an Interment/Inurnment Right shall be complete or effective unless it has been approved by Metro and recorded in the Metro Cemetery records.

(d) A one-time administrative fee set at the discretion of the Chief Operating Officer or designee shall be charged for all Transfers.

(e) The above set forth notwithstanding, the Transfer Interment/Inurnment Rights within Family Plots to family members in accord with Oregon Revised Statute Chapter 97 is permitted without fee or other charge.

(f) Except as set forth in written agreements entered into by Metro prior to the effective date of this ordinance, the sale of Interment/Inurnment Rights by purchasers to third parties for more than the current rate charged by Metro is prohibited.

10.04.100 Full Body Grave Dimensions – Burial Limits

A single Grave shall measure 40 inches by 9 feet and may contain up to one (1) casket and six (6) urns, unless otherwise authorized

at the sole discretion of the Chief Operating Officer or designee and/or the rules adopted pursuant to this chapter.

10.04.110 Outer Burial Containers Required

Metro approved Outer Burial Containers are required for all Interments/Inurnments in Metro Cemeteries.

10.04.120 Disinterment

(a) Unless ordered by the State Medical Examiner or a court having jurisdiction over Metro Cemeteries, Remains interred in a Grave at any Metro Cemetery shall only be disinterred upon the written consent of the Chief Operating Officer or designee and the person having the right to control the disposition of said Remains and in accordance with applicable state law.

(b) If Disinterment is needed by Metro and consent of the person having the right to control the disposition of said Remains cannot be obtained or such person cannot be located, the Chief Operating Officer or designee may apply to the Multnomah County Circuit Court for permission to disinter. Said application shall be submitted only after notice of application to the Metro Council.

10.04.130 Flowers Funerary Decorations Restricted

All flowers, funerary decorations and plants on Graves in violation of this section, and/or that conflict with normal grounds maintenance, will be forfeited, removed and disposed without notice.

(a) All flowers, funerary easels and decorations placed on a Grave at the time of a funeral and not removed within three weeks after the Interment are subject to removal and disposal by Metro.

(b) All flags, flowers and plants placed on Graves on Memorial Day and not removed within three weeks after the Interment are subject to removal and disposal by Metro.

(c) Artificial flowers and plants are prohibited between March 1st and November 15th of each year, except for a period of three weeks after Memorial Day observance.

(d) All flowers, funerary easels and decorations will be subject to removal and disposal by Metro when they become withered, faded or otherwise unsightly, in Metro's sole discretion.

10.04.135 Personal Effects and Mementos Prohibited

(a) Personal property, including but not limited to, sacred objects, photographs, toys, clothing, glassware, banners, pin-wheels, chimes, balloons or staked items, left in the Cemetery or placed on or near a Grave is prohibited, except as otherwise permitted in writing by Metro at the discretion of the Chief Operating Officer or designee. Said personal property will be forfeited, removed by the Cemeteries staff and disposed without notice or other process.

10.04.140 Planting On or Around Graves Prohibited

Planting of trees, shrubs or any other plant material, except turf grass, on Graves or their borders is prohibited, unless approved in writing.

10.04.145 Grave Improvements Prohibited

Grave improvements other than Metro approved Markers, Monuments and Memorials are prohibited. The placement or installation by any person of temporary or permanent improvements covering, bordering or indicating the boundaries of Graves, including but not limited to posts and fences of any kind, walls, coping or curbs of concrete brick, stone or marble, is a violation of this chapter subject to the penalties set forth in Chapter 10.01.600. Memorials and improvements so placed or installed shall be deemed forfeited and shall be removed by the Cemeteries staff and disposed without notice.

10.04.150 Markers

(a) Grave Markers shall be limited to no more than one per Grave, installed at the head of the Grave. Persons installing a Grave Marker must submit an Installation Authorization Form to Metro depicting and describing the Marker and providing proof that said person is authorized to perform installation by the owner(s) of the Interment/Inurnment Right described on the Certificate of Interment and the person with legal right of disposition of the Remains.

(b) No person shall place any permanent Marker made of a material other than natural stone or bronze metal in a Metro Cemetery.

(c) No person shall place any permanent Marker in a Metro Cemetery unless properly supported with a foundation/collar made of concrete three (3) inches in width, flush with the ground, having no beveled edges. Each foundation/collar must be marked with the Grave, lot and block number of the Cemetery in which it is placed.

Markers and Marker bases shall not exceed the width of the Grave and shall be no larger than the following dimensions:

i.	Single Grave	18″ x 30″
ii.	Companion Graves	18″ x 60″

(d) The installation of any improvement to a Grave other than a Marker is prohibited unless otherwise approved as set forth in section 10.04.160.

10.04.160 Monuments and Memorials Restricted

(a) Monuments and Memorials are generally prohibited, but may be allowed at the discretion of the Chief Operating Officer or designee or as permitted by rules established pursuant to this chapter.

(b) Monuments and Memorials permitted under this section must comply with the requirements for Markers set forth in Section 10.04.150(a)-(c), and are subject to an additional fee. The owner(s) of the Interment/Inurnment Right and/or the person with legal right of disposition must enter into an Agreement with Metro providing permission to install the Monument or Memorial and releasing Metro from liability for any and all damage or destruction of the Monument or Memorial that may occur.

10.04.170 Marker, Monument, Memorial Repair Restricted

No repairs, restoration or improvements to any Marker, Monument or Memorial is permitted unless performed strictly under the written terms of approval issued by the Chief Operating Officer or designee. Violations of this section are also violations of section 10.04.180.

10.04.180 Removal of Marker, Monument, Memorials Prohibited

The removal of any Marker, Monument, Memorial or improvement is prohibited unless approved in writing by the Chief Operating Officer or designee. It shall be a violation of this chapter for anyone to intentionally damage, alter, or deface any such property.

10.04.185 Cemetery Errors and Irregularities

(a) The Chief Operating Officer or designee may preclude an Interment/Inurnment in a Cemetery based on a determination that the ownership of the right of Interment/Inurnment, the location of the Grave, or the ability to open said Grave without intruding upon nearby occupied Graves is in doubt.

(b) When an Interment/Inurnment is precluded by the Chief Operating Officer under subsection (a), or if for any other reason an Interment/Inurnment space cannot be opened, Metro may elect to direct Interment/Inurnment of Remains in an available Grave in such location in the Cemetery as is deemed reasonably appropriate and reasonably equivalent in value at the sole discretion of the Chief Operating Officer or designee.

(c) The Chief Operating Officer or designee may correct any errors made by Metro in the description or transfer of Interment/Inurnment Rights, or by its agents in performing Interments/Inurnments, Disinterment or removals, when determined to be necessary in his/her sole discretion. The Chief Operating Officer or designee may void the erroneous grant of any Interment/Inurnment Certificate and provide a refund of the purchase price, or substitute in lieu thereof an Interment/Inurnment Certificate for a Grave selected by Metro within the same Cemetery of equal value and reasonably similar location if possible. In the event such error involves the Interment/Inurnment of the remains of any person, The Chief Operating Officer or designee may, at his/her sole discretion, elect to disinter said remains in accord with state law and reinter them in another available Grave within the same Cemetery, of equal value and reasonably similar location as may be substituted and conveyed as set forth the above.

10.04.190 Rates and Fees for Interment and Inurnment Rights, Burial Services and Perpetual Care Fund

(a) The Chief Operating Officer or designee shall establish rates for the Perpetual Care Fund, sale of Interment/Inurnment Rights for Graves and Niches and shall set fees and charges for Pioneer Cemetery goods and services, including Burial and other required or optional services. Said rates, fees and charges shall be designed to recover all costs of operating the Cemeteries and may be adjusted from time to time without notice, to reflect market rates and to ensure the solvency and financial stability of the Cemeteries.

(b) Interment/Inurnment Right purchasers shall pay the rate, fees and charges on the date of purchase. Except as otherwise set forth in this chapter, no option to purchase rights or other prospective rights to Interment in the Pioneer Cemeteries shall be granted unless approved by resolution of the Metro Council setting forth the terms and conditions of said option or prospective right. Prices, fees and charges for services may vary among Cemeteries, as determined by the Chief Operating Officer.

(c) The Chief Operating Officer or designee may reduce rates, fees and charges for Grave sales and Burial Services in situations of extreme financial hardship or in cases of Wards of the State. All reductions or waivers shall be applied by written order setting forth the facts justifying the waiver or exemption.

10.04.220 Historical Research Requests

Due to the confidentiality and sensitive nature of Cemetery records, Metro will not distribute personal or contact information regarding any Interment/Inurnment Rights performed within the last 50 years from date of inquiry without proof of lineage, except as required by Oregon public records laws.

10.04.230 Other Laws Applicable

This chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this chapter.

(Ordinance No. 12-1286, Sec. 1, adopted October 4, 2012, effective January 2, 2013.)