

A G E N D A

600 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-2736



METRO

TEL 503-797-1540 FAX 503-797-1793

MEETING: METRO POLICY ADVISORY COMMITTEE

DATE: November 10, 2004
DAY: Wednesday, 5:00-7:00 p.m.
PLACE: Metro Council Chamber/Annex

NO	AGENDA ITEM	PRESENTER	ACTION	TIME
	CALL TO ORDER	Becker		
1	INTRODUCTIONS	All		5 min.
2	ANNOUNCEMENTS	Becker		3 min.
3	CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS			3 min.
4	CONSENT AGENDA • Meeting Summary for October 27, 2004	Becker	Decision	5 min.
5	COUNCIL UPDATE	Bragdon		5 min.
6	PROPOSED GOAL 14 CHANGES	Benner	Introduction/ Discussion	45 min.
7	EXCEPTIONS PROCESS	Benner	Introduction/ Discussion	30 min.

UPCOMING MEETINGS:

November 17, 2004 & December 8, 2004

For agenda and schedule information, call Kim Bardes at 503-797-1537. e-mail: bardes@metro.dst.or.us
MPAC normally meets the second and fourth Wednesday of the month.
To receive assistance per the Americans with Disabilities Act,
call the number above, or Metro teletype 503-797-1804.
To check on closure or cancellations during inclement weather please call 503-797-1700.

METRO POLICY ADVISORY COMMITTEE MEETING RECORD

October 27, 2004 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Charles Becker, Nathalie Darcy, Rob Drake, Andy Duyck, Gene Grant, John Hartsock, Tom Hughes, Kent Hutchinson, Tom Imeson, Richard Kidd, Deanna Mueller-Crispin, Lisa Naito, Doug Neeley, Wilda Parks, Ted Wheeler

Alternates Present: Larry Cooper, Laura Hudson

Also Present: Hal Bergsma, City of Beaverton; Bev Bookin, Columbia Corridor Association; Al Burns, City of Portland; Cindy Catto, AGC; Gary Clifford, Multnomah County; Danielle Cowan, City of Wilsonville; Brent Curtis, Washington County; Bob Durgan, Andersen Construction; Kay Durtschi, MTAC; Mike Houck, Portland Audubon; Gil Kelley, City of Portland; Jim Labbe, Audubon Society of Portland; Susy Lahsene, Port of Portland; Stephan Lashbrook, City of Lake Oswego; Leeanne MacColl, League of Women Voters; Irene Marvich, League of Women Voters; Doug McClain, Clackamas County; Karen McKinny, City of Hillsboro; Greg Miller, AGC; Alice Norris, City of Oregon City; Laura Oppenheimer, Oregonian; John Pettis, City of Gresham; Pat Ribellia, City of Hillsboro; Amy Scheckla-Cox, City of Cornelius; Jonathan Schlueter, Westside Economic Alliance; Andrea Vannelli, Washington County; Don Warner, MCCI; Brian Wegner, Tualatin Riverkeepers; David Zigel, TriMet

Metro Elected Officials Present: Liaisons – Carl Hosticka, Council District 3, Susan McLain, Council District 4; David Bragdon, Council President; other – Brian Newman, Council District 2; Rod Park, Council District 1

Metro Staff Present: Kim Bardes, Dick Benner, Dan Cooper, Andy Cotugno, Chris Deffebach, Paul Garrahan, Mark Turpel

1. INTRODUCTIONS

Mayor Charles Becker, MPAC Chair, called the meeting to order 5:10 p.m. Those present introduced themselves.

2. ANNOUNCEMENTS

There were none.

3. CITIZEN COMMUNICATIONS

There were none.

4. CONSENT AGENDA

Meeting Summary for October 13, 2004.

Motion:	Richard Kidd, Mayor of Forest Grove, with a second from John Hartsock, Special Districts, Clackamas County, moved to adopt the consent agenda without revision.
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Vote:	The motion passed unanimously.
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5. COUNCIL UPDATE

Council President David Bragdon said there had been no land use items on the Council agenda other than what was already on the MPAC agenda. He said that the council had been mostly dealing with solid waste and MERC issues.

6. GOVERNOR'S TASK FORCE ON GLOBAL WARMING REPORT

Angus Duncan gave a general overview of the report, which is too large for inclusion in the record and can be found at the website address included in the packet materials.

Justin Klure passed out a few handouts, which are attached and form part of the record. He reviewed those handouts for the members.

Andy Duyck asked why they were focusing on CO₂ when hydrocarbons were the real contaminants?

Angus Duncan said that CO₂ had the largest impact on greenhouse gas going into the atmosphere. He discussed the different considerations taken into account when deciding how to manage greenhouse gases. He said that they needed to reduce CO₂ use dramatically.

Andy Duyck asked if the report addressed the relationship of CO₂ and man made engines versus natural sources. He wondered if the actions taken would really have an impact on reducing toxins in the air.

Angus Duncan said that nature did produce much more CO₂ than civilization did, but the incremental addition of CO₂ by humanity had the negative impact. The trick was to keep a balance of gases. It was during the last 100 years that it had gotten significantly out of balance.

Justin Klure said that over the last 100 years mankind had primarily extracted fossil fuels to generate energy. This process was taking carbon from the ground that would not normally be released as quickly and putting it into the air, which had caused the acceleration in the last 100 years.

Angus Duncan said that was why they had settled on the essential strategy of slowing down the amount of sequestered CO₂ that humanity was releasing and doing so by reducing the amount of fossil fuels that was burned. He said that regarding the land-use transportation elements, they would be able to lean on the capabilities of institutions such as Metro to produce a better and more effective package of measures.

Mike Houck said that all the measures Mr. Duncan had mentioned were on the reduction of emissions side and he wondered if there was anything in the report about dealing with resulting flood plains or intensified storms due to global warming.

Angus Duncan said that would have to be forwarded to the next advisory group. Before they could propose a credible adaptation strategy they had to propose a credible mitigation strategy. He said that if Oregon did everything to reduce global warming and no one else in the nation or the world did anything, it would have no good effect. He said that if it turned out that Oregon was forging ahead alone, then they would have to back off. He said that they did not want to be in the process of reducing greenhouse gases disproportionately and adversely affecting the competitiveness of Oregon utilities and businesses. He said that ideally Oregon would be ahead on this, but not too far ahead.

Brian Newman asked if there was such a technology as CO₂ scrubbers that could take CO₂ out of the air.

Angus Duncan said that planting trees had a significant potential offset. He said that they did have technology to capture CO₂ rather than emit it from smoke stacks, but they did not have a process to eliminate it. He said that currently there was a lot of effort and investment in the coal industry to see if they could capture the CO₂ from coal plants and sequester it in underground gas wells. So far a lot of money had been spent, and there were encouraging sounds from the coal industry, but not a lot of evidence of successful cost effective tools and measures approaching commercialization. Sequestration was mostly planting plants or utilization of low till agricultural practices that allowed CO₂ to move back into solid form and rest undisturbed in the soil. Most of the effective measures to reduce CO₂ in the atmosphere tended to circle back to fossil fuels.

7. LCDC HEARING AND DLCD STAFF REPORT ON METRO'S UGB INDUSTRIAL LANDS DECISION

Dick Benner reviewed the page provided in the packet material. He reviewed the process for the decision by the LCDC agency.

Doug Neeley said that he had supported the Cornelius issue because they wanted to create a balance between industrial and residential land use and he wondered if that was not an option that LCDC had considered.

Dick Benner said that was the argument that Metro had made in the exceptions. Metro had argued that the regional framework plan had more than one policy in it. In all the documents that were submitted to the agency Metro listed all the various policies from the regional framework plan that applied. When Metro applied the agricultural land policy it also had to apply the others and reconcile them.

Council President David Bragdon said that he hoped Dick Benner's discussion helped to illuminate the position that Metro was put in during this type of decision. He hoped the MPAC members recognized that Metro reported to a higher authority. Two of three proposed remands were decisions that Metro made in response to local governments. He emphasized that the local governments at MPAC and Metro were in the process together and if Metro had not seemed instantly responsive to some issues in the spring it was because they were weighing heavy issues related to this topic.

8. COMMENTS TO METRO COUNCIL ON RESOLUTION NO. 04-3506 ON FISH AND WILDLIFE HABITAT

Council President Bragdon discussed where the resolution had reached. He referred to Rex Burkholder's proposed amendments which were provided at the meeting and form part of the record. He emphasized that the resolution was not a fully non-regulatory approach. It was an acknowledgement that regulation existed at the local level and had taken strides in the 5 or 6 years since Metro undertook this work. They had to determine the nature of regional regulation and define the relationship between what Metro would promulgate and what was already happening at the local level. The resolution contemplated that the regulations would continue, that it was at the local level, and that it would have to meet certain outcomes and performance standards. The best role for Metro was to be setting those standards which would be achieved, in part, by those local regulations. He said he was supportive of Councilor Burkholder's proposed amendments to this resolution.

Rod Park said that there was a recognition of the limitations of regulations on two levels: 1) regulations as a tool, and 2) the schedule that was laid out now that would have periodic review frozen until July 2007.

If the process continued under current policy the way the rule was currently written, Oregon City would be the last jurisdiction in line and that would take place in 2017.

Andy Cotugno reviewed the MTAC comments, which are attached and form part of the record.

Carl Hosticka referred to the Goal 5 TAC/WRPAC comments on the resolution, which are attached and form part of the record.

Doug Neeley said that the respective jurisdictional councils needed more time to discuss the issue and absorb the materials circulating regarding this resolution before he was comfortable making a decision or recommendation to Metro Council.

Lisa Naito requested at least a month to review the materials and the information.

Andy Duyck also asked to delay discussion and comments until the November 10th MPAC meeting.

Rob Drake asked to wait until after the election and hold off until after the November 15th Washington County Basin meeting.

Gene Grant said that there were groups on both sides of the fence who needed time to consider the resolution. He said that the Portland Business Alliance subcommittee had recommended to their board to support the resolution, but that the board itself had not had time to consider it.

Carl Hosticka clarified that delaying this discussion would not delay Metro's work.

Deanna Mueller-Crispin wanted to know what the differences would be between the local program performance standards and regional outcomes. She wondered if the program performance standards were program elements whereas the regional outcomes sounded like things that would be measured.

David Bragdon said that was correct. He said that the resolution was to give direction to Metro staff to develop the programs.

Gene Grant said that one incentive that could be used was a density bonus. If property owners developed in the non-resource portion of their land then they would get some sort of density bonus rather than having Metro or the local government taking away development rights.

Andy Duyck said another benefit could be waiver of custody fees for parkland.

Nathalie Darcy said that she also supported taking more time to discuss the issue. She said that she hoped that MPAC and the Council would be as thoughtful about this resolution as they were when they crafted the vision statement. She asked MPAC and Metro to be truly thoughtful with the resolution and not to be in a huge rush to adopt.

Tom Imeson said that the Port of Portland strongly supported the direction that had been taken by the resolution.

Chair Becker asked if it came back to MPAC on November 10th would that be adequate time for the jurisdictions to review the matter and make a decision. After some discussion the majority agreed that it should come back to MPAC for decision/recommendation at the December 8th meeting.

There being no further business, Chair Becker adjourned the meeting at 6:31 p.m.

Respectfully submitted,

Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR OCTOBER 27, 2004

The following have been included as part of the official public record:

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#6 Governor's Task Force on Global Warming Report	10/13/04	Draft Oregon Strategy for Greenhouse Gas Reductions Executive Summary	102704-MPAC-01
#6 Governor's Task Force on Global Warming Report	10/13/04	Abstract of Draft Recommendations of the Oregon Strategy for Greenhouse Gas Reductions (The Governor's Advisory Group on Global Warming)	102704-MPAC-02
#8 Comments to Metro Council on Resolution No. 04-3506	10/7/04	Email letter from Sara Vickerman to David Bragdon, Carl Hosticka, Mike Jordan re: Goal 5 Implementation	102704-MPAC-03
#8 Comments to Metro Council on Resolution No. 04-3506	10/8/04	Email letter from Kelly Ross to Tim Roth re: Important Goal 5 Update	102704-MPAC-04
#8 Comments to Metro Council on Resolution No. 04-3506	10/18/04	Letter from Sue Marshall, Tualatin Riverkeepers, to Metro Council, MPAC, MTAC re: S.B. 1010 Water Quality Management	102704-MPAC-05
#8 Comments to Metro Council on Resolution No. 04-3506	10/14/04	Email from Mike Lehne to MPAC, David Bragdon, Rod Park re: Resolution No. 04-3506	102704-MPAC-06
#8 Comments to Metro Council on Resolution No. 04-3506	10/14/04	Email from Elizabeth Ohlmann to MPAC, David Bragdon, Rod Park re: Resolution 04-3506	102704-MPAC-07

#8 Comments to Metro Council on Resolution No. 04-3506	10/15/04	Email from Michael Sykes, Beverly Maughan to David Bragdon re: Goal 5	102704-MPAC-08
#8 Comments to Metro Council on Resolution No. 04-3506	10/21/04	Letter from Bill Wyatt, Port of Portland, to David Bragdon re: Resolution 04-3506	102704-MPAC-09
#8 Comments to Metro Council on Resolution No. 04-3506	10/20/04	Slides from Port of Portland included for MPAC review re: Summary of Goal 5 Application to Port Property	102704-MPAC-10
#8 Comments to Metro Council on Resolution No. 04-3506	10/21/04	Letter from Doug Neeley, Oregon City, to Brian Newman re: Goal 5, Resolution No. 04-3506	102704-MPAC-11
#8 Comments to Metro Council on Resolution No. 04-3506	10/25/04	Email from Mike Houck to MPAC and Metro Council re: Resolution No. 04-3506	102704-MPAC-12
#8 Comments to Metro Council on Resolution No. 04-3506	10/25/04	Oregonian op-ed: The Costs of Not Protecting Our Natural Resources, Alan Yeakley and Connie Ozawa	102704-MPAC-13
#8 Comments to Metro Council on Resolution No. 04-3506	October 2004	Proposed Burkholder Amendments for Resolution No. 04-3506	102704-MPAC-14
#8 Comments to Metro Council on Resolution No. 04-3506	10/27/04	Memo from Andy Cotugno, Chris Deffebach to MPAC re: MTAC comments on Resolution 04-3506	102704-MPAC-15
#8 Comments to Metro Council on Resolution No. 04-3506	10/21/04	Memo from Chris Deffebach to Metro Council re: Goal 5 WRPAC Comments Resolution 04-3506	102704-MPAC-16

TO: ECONOMIC DEVELOPMENT PLANNING ADVISORY COMMITTEE AND INTERESTED PARTIES

The attached is the official proposed draft Goal 14 and proposed UGB administrative rule. Please disregard any earlier versions you may have received. If you forwarded an earlier version to someone, please replace their copies with this one. Thank you.

Pam Pearson
DLCD Economic Development Planning Team
503-373-0050 x318

>>> Bob RINDY 10/21/2004 2:54:26 PM >>>

Attached are proposed amendments to Goal 14, proposed new rules regarding urban growth boundaries, and some amendments to related rules. Also attached is the formal notice, which includes hearing dates and locations for people wishing to submit comments on these proposals.

I have also attached a brief explanation of the Goal amendments. This includes an outline of the rule, but not a detailed explanation, in part because the requirements in the rule are for the most part self explanatory.

Copies of these and other documents will be on our website (soon), at <http://www.lcd.state.or.us/>

The first hearing on these proposals will be Friday, November 5, 2004, beginning 9:00 am, at the Port of Portland, 121 NW Everett St, Portland.

Bob Rindy
503-373-0050 x229

October 20, 2004

TO: Interested Persons
FROM: Department of Land Conservation and Development
RE: **Overview and Description of the Proposed Amendments to Goal 14 and Related rules, and Proposed New Rules under OAR 660, Div. 024, Regarding Urban Growth Boundaries**

Background and history

Goal 14, the “Urbanization” goal, was one of the first goals adopted by the Land Conservation and Development Commission in 1973. The main objective of Goal 14 is to focus urban development inside urban growth boundaries in order to conserve farm and forest land and to foster the efficient use of land and public facilities. These objectives were originally derived from ORS 215.243, enacted in 1973 as Senate Bill 101, along with SB 100, which established LCDC and the statewide land use program.

Throughout the late 1970’s and early 1980’s, LCDC acknowledged 215 urban growth boundaries encircling all 240 cities. These included a few UGBs that surround two or more jurisdictions, and also included the Metro UGB, which provides a land supply for 24 cities and 3 counties. Throughout the acknowledgment process LCDC was required to interpret Goal 14’s UGB amendment provisions, thereby establishing a considerable amount of “precedent” with regard to the goal, much of which has never been “codified” in commission rules. A number of court decisions established additional interpretive precedents. Today, people reading the goal may be completely unaware of these interpretations and their ramifications for the process outlined in the goal. For that reason alone, Goal 14 is difficult for the public or practitioners to understand and administer. Added to this concern are a number of new and amended statutes enacted since the goal’s inception that are not reflected or referenced in the goal, and that may change the meaning and importance of several requirements in the goal.

A primary objective of Goal 14 is to concentrate urban development inside urban growth boundaries, and to provide a sufficient supply of land for urban development needs while at the same time protecting the state's farm and forest lands. There are two hundred and fifteen UGBs in Oregon, all acknowledged with the finding that they included a 20-year supply of buildable land. Goal 14 establishes that UGBs must include developable land for housing and employment needs, and for livability, and early in the program LCDC interpreted this to mean a 20-year need (later rules and statutes further solidified this). The term “employment needs” has been interpreted to include industrial, retail, and office needs. The term “livability” has been interpreted to include parks and open space, but other interpretations have also been proposed, including interpretations about urban form.

Currently, the process and standards governing UGB amendments are located in three official state documents: State Law (primarily ORS 197.296 through 197.298), Statewide Planning Goal 14 (OAR 660, Division 015), and certain LCDC administrative rules

(especially OAR 660, Divisions 004 and 026). However, as mentioned above, many of the key “policies” regarding UGBs derive from LCDC interpretations of statute, goal, and rule provisions, i.e., “precedents” promulgated by LCDC during its review and acknowledgment of comprehensive plans and UGBs (*circa* 1978 – 1985). Similarly, LUBA and the courts have established a great deal of precedent in their review of individual UGB amendments appealed by interested parties. These “interpretations” are in fact requirements once they are included in a final LUBA or court opinion. But the fact that they are not necessarily annunciated in the goal or administrative rules hinders public understanding of the process and has led to confusion, extra costs, delays, and appeals.

Some key UGB requirements are broadly worded, allegedly with multiple “interpretations,” ambiguities and redundancies. This has also led to prolonged disputes locally, and to prolonged legal skirmishes over UGB amendments. While some controversy in the UGB process is unavoidable, it is anticipated that the process of establishing UGB interpretive rules would provide the most efficient way for LCDC to examine this process and eliminate internal policy conflicts, vague wording, and other problems that lead to confusion as local governments work through the UGB process

In 1997, department staff undertook a review and evaluation of Goal 14’s requirements and procedures for UGB amendments. DLCD staff contracted with the planning firm Cogan, Owens, and Cogan to review Goal 14 and associated policy. The resulting written evaluation, *Working Paper: Goal 14 Analysis*, presented the following conclusions:

1. The primary focus of attention has been on establishing and amending UGBs. Little attention has been paid to the process of converting urbanizable land to urban land in terms of timing, the availability of public facilities and services and patterns of development. The application of Goal 14 is awkward and confusing because of the number of conflicting terms, definitions and redundancy within the goal or other parts of the statewide planning goals, state law and administrative rules.
2. Interpretation and application of the provisions of Goal 14 have come about largely through litigation because administrative rules have provided scant direction. The results may not be what practitioners and the state believe is good public policy in all cases.
3. Conflicts between urban growth and resource land protection will heighten as communities begin to consider amending UGBs to accommodate future growth. DLCD is not fully equipped to help local governments address these conflicting priorities.
4. The UGB amendment process, while it should not necessarily be easy, is confusing, difficult and is fraught with potential for procedural error, a source of litigation. It focuses on details and the larger objectives tend to get lost in the process.
5. DLCD has difficulty maintaining a proactive relationship with local government because it lacks written guidelines and procedures for UGB amendments and growth

management. The Department is in a reactive mode and is frequently an appellant on UGB amendments.

6. The most important gaps to address concern the lack of:
 - Definitions (public facilities, maximum efficiency, urban, urbanizable, etc.) for clarity in application of the goals.
 - Direction in the goals, statutes or rules concerning city-county growth management agreements to address local issues related to growth management within UGBs.
 - Direction as to when and how to apply the conversion policies of Goal 14.
 - Procedures and guidelines for resolving conflicts between agricultural land and urban land needs.
 - Clarification concerning when and how the statewide planning goals need to be addressed in a UGB amendment.
 - Clear policy and procedures for amending a UGB when urban reserves are proposed for addition to the UGB.
 - Guidance on the level of analysis of public facilities needed for a UGB amendment.

1998 through 2000 Project to Amend Goal 14 and Adopt New UGB Rules

In January 1998, LCDC directed staff to propose a work plan to address these problems, and in May 1998, based on the proposed work plan, the commission directed staff to schedule LCDC adoption of new administrative rules around December 2000. For advice in drafting rules, the department appointed a group of stakeholders – the “Goal 14 working group” – which met from September 1998 through June 2000 except for a break during the 1999 legislative session. The working group and the department produced a set of draft administrative rules to interpret and implement Goal 14 (including many of the features described above in the opening paragraphs of this paper). The group also proposed a set of amendments to Goal 14 itself. The department and the commission held ten hearings on the proposed rules and Goal 14 amendments in the summer and fall of 2000. However, with the passage of Measure 7 in November 2000, LCDC suspended the Goal 14 project (and other rulemaking underway at the time) and the project was not restarted until June 2004.

The proposed UGB rules in 2000 were generally considered as two separate parts, with the first part providing detailed standards and procedures for amendment of UGBs, and the second part proposed “community development patterns” planning requirements inside UGBs. The “patterns” rules addressed topics such as efficiency (e.g., density of urban development), mixed-use development, industrial land efficiency, and commercial development along highways. The pattern rules generated considerable controversy, which contributed to LCDC’s decision to suspend rulemaking in November 2000. When LCDC discussed restarting this project in November 2003, it concluded that the project should only concern the UGB amendment rules, and should not include the development patterns rules.

The 2004 Project to Amend Goal 14 and Adopt New UGB Rules

On June 11, 2004, LCDC formally restarted the project to amend Goal 14 and adopt new administrative rules in order to clarify and streamline the UGB amendment process. The commission indicated that the “urban development patterns” issues considered in 1998-2000 should not be part of this effort, but the department should begin with the work produced in the previous effort described above.

The commission established a workgroup to advise the department in drafting amendments to Goal 14 and new administrative rules (see attached roster of the workgroup membership). The workgroup held meetings from July through October, and the minutes to those meetings are available on DLCD’s website or can be obtained by contacting the department. The workgroup began its work where the previous working group left off in November 2000, i.e., with the draft goal and rules produced by those workgroups, but without the “development patterns” proposals.

The workgroup considered several drafts of the goal and rule proposals, and the department produced the proposals attached to this report by considering the discussion and suggestions of the workgroup and others who sent in comments. The workgroup did not vote on the proposed drafts attached to this report, or any previous drafts. The workgroup provided advice to the department, through discussion and recommendations, but the group as a whole does not endorse or recommend the final product at this time. The workgroup will continue to meet after the November public hearings in order to consider testimony and recommend additional changes to the draft rules.

Principles Guiding the Workgroup and the Department

A fundamental objective of this exercise is the establishment of a sole set of standards and procedures for UGB amendments, standards that are unambiguous and that conserve but build on the basic UGB process established by LCDC in Goal 14. In restarting this project in June 2004, LCDC agreed to some “principles” to guide the workgroup and the department in drafting revisions to Goal 14 and proposed UGB amendment rules. The principles are:

1. Establish procedures and requirements for amending UGB’s that are clear and uncomplicated.
2. Maintain the following policies for UGB amendments:
 - a) There must be a demonstrated need for a boundary expansion based on a required 20-year supply of land for population, employment, and other related needs, including economic development,
 - b) It must be shown that there are no reasonable alternatives to accommodating the need inside the existing boundary, and
 - c) When a boundary expansion is justified, there must be a balancing of factors (e.g., environmental consequences, efficiency of transportation

systems, economic provision of public facilities, efficiency of land use, etc.) for determining where the expansion will occur, within the confines of current state law.

3. Establish procedures and factors that may be necessary for consideration of growth and development of cities that are near metropolitan areas (e.g., Sandy and Newberg).
4. Establish procedures and requirements for state and local coordination and adoption of population projections. Establish factors to consider for the allocation of population forecasts among urban areas.

Description of Proposed Changes to Goal 14:

The Department has proposed a set of amendments to Goal 14 for public comment. These are attached. The workgroup discussed several drafts of these proposals, and the final proposal attached here reflects the workgroup discussion and recommendations. The following is a summary of the proposed changes to Goal 14, some of the reasons for proposing these changes, and the intent of the changes.

Goal: The opening paragraph of the goal (lines 1-3) sets forth the goal itself. The department is proposing to retain this statement but with some additional language that clarifies the current understanding of Goal 14 established by commission and court precedent over the last 30 years. The proposed amended goal is:

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Part 1, Urban Growth Boundaries: This larger category includes all requirements for UGBs. Other parts of the goal are set out by headings such as this, as discussed below. The proposed revision to the first paragraph under the goal retains the current goal declaration that UGBs separate “urban” land from “rural” land, a key principle in the 1986 “Curry County” Supreme Court decision. However, two slight modifications to the goal wording are proposed: First, it clarifies that UGBs are intended to *separate* rural from urban land, rather than simply *identify* these two categories of land. Second, the redraft clarifies that the land inside a UGB consists of both *urbanizable* land and *urban* land (these terms are to be defined at the end of the attached goal document).

This paragraph clarifies that UGBs are to be established only around *incorporated cities*. This idea is currently expressed in the *definition* of “urban land” rather than in the text of the goal. The working group agreed that any basic policy concept such as this should be clearly stated in text of the goal rather than derived from a definition. It is worth noting that because all UGBs statewide have already been established and acknowledged, and because new cities incorporate infrequently, Goal 14 (and any new rules) would rarely if ever be used for “establishment” of a new UGB. Rather, these provisions will be used for amendment of acknowledged UGBs.

The proposed revised wording under the opening paragraph expresses two important ideas that have come about through case law on UGBs but that currently are not clearly stated in the goal itself. First, a UGB should not only be *established* by a local government, but also *maintained*, i.e., an adequate land supply inside a UGB must be maintained over time. Related to this is the second idea expressed in the rewrite: that UGBs not only *separate* urban and rural land – UGB’s also “*provide*” land for “*urban development*.”

This paragraph also clarifies cooperation among the local governments as they adopt or amend a UGB. The changes proposed for this paragraph more carefully indicate that all cities and counties with land included in a UGB must “adopt” the UGB. This principle has long been established by LCDC precedent interpreting the goal. By requiring that both the city and the county adopt the same UGB, coordination and cooperation between these local governments is assured. However, with respect to the Metro UGB, all participating local governments would not adopt this multi-government boundary – only Metro adopts the Metro UGB and it’s amendment.

Land Need: The next paragraph of the proposed revised Goal 14 would be placed under a new subheading in the goal - “Land Need” - and would include three “factors” for determining that need. Currently Goal 14 indicates there are seven factors that must be “considered” when establishing or amending a UGB. Over time, factors one and two have been dubbed the “need factors,” and the remaining factors (3 through 7) are called the “location factors.” The proposed goal amendment would formalize this tradition by separating these factors into two subsections, one for “land need” and one for “boundary location.” However, the redraft also recognizes that the requirement to examine land inside a UGB before amending the UGB is, in effect, a “need” factor rather than a location factor. As such, the redraft includes three “land need factors.” Reflecting long-standing case law, the proposal clarifies that local governments do not just “consider” the factors, they must *base* their UGB decisions on the factors, i.e., UGB decisions must be consistent with the factors.

Factor 1: Currently Goal 14 Factor 1 requires UGBs to be based on a demonstrated need for “urban population growth requirements.” The proposed rewording of Factor 1 clarifies that this clause refers to “a coordinated 20-year population forecast” rather than basing need on the less specific “urban growth requirements”, as currently provided in that factor. The long range forecast is governed by statute (ORS 195), and would be further clarified in the proposed Goal 14 rule, as discussed later.

Factor 2 : The proposed Factor 2 also retains (but restates) the existing factor and therefore maintains existing policy, but with a few important changes. First, the proposed amendments would clarify that a UGB is based on a *need for land*, (since a fundamental purpose of a UGB is to include developable land “to provide for urban development”). Second, the proposal divides land need into three categories: *housing, employment, and other urban uses*. The “other” category includes public

facilities, streets and roads, schools, parks and open space. Historically UGBs were drawn to provide for housing needs and employment opportunities. The proposed rewritten Factor 2 states that these “needs” would remain the primary focus of the process. However, most local governments also provided an amount of land anticipated to be needed for related urban uses, such as public facilities, streets, sewer and water systems and public parks.

Factor 3, Efficiency: This factor has generally been considered one of the “locational factors” rather than a “need” factor, and indeed the efficient use of land on the fringe of the UGB is an important consideration in deciding *which* land to put inside the UGB. However, the overall efficiency of land use inside the UGB is also a factor in determining whether to expand a boundary, and by how much. There appears to be broad agreement that local governments should look to land already inside the UGB before deciding to expand the UGB. Opportunities to use urban land more efficiently often exist, and the amended Goal 14 should ensure these opportunities are considered before looking to land outside the boundary. To ensure this we have included “the efficient use of land within the existing urban area” as a “need factor” rather than as a simply a locational factor to be considered in the process of changing an urban growth boundary.

To further clarify this factor, especially since “efficiency” can have multiple meanings, we have included a second sentence in the factor. “*Prior to expanding an urban growth boundary, local governments shall demonstrate that land needs cannot reasonably be accommodated on land already inside the urban growth boundary.*”

Boundary Location

This heading sets forth the process for deciding where a boundary amendment should occur. The enactment of HB 2709 in 1995 effectively amended Goal 14 with respect to the “locational factors”, i.e., those factors helping local governments choose which lands to include in a UGB among the many alternative sites adjacent to an urban area. Prior to that statute (now codified at ORS 197.298), the “location factors” of Goal 14 required “consideration” (i.e., “weighing”) of several matters, including compatibility with farmland, the efficient extension of public facilities, and economic and environmental impacts. The commission and case law allowed for a “balancing” of these considerations, so one or more might have more import than others. Farmland was by no means excluded from consideration for adding to a UGB, but “retention of agricultural land” was one of the issues local governments had to *consider* as they established or amended a UGB.

The statute at ORS 197.298 changed the UGB process in 1995 by establishing a “hierarchy” for consideration of various types of land adjacent to UGBs. Under this hierarchy, farm and forest land cannot be added to a UGB until land in other land “categories” (e.g. non-resource land, or rural residential “exception” land) is considered. The statute retained the ability to reject certain higher priority categories of land to serve identified land needs, but only for certain specified reasons. The statute, in effect, makes it more difficult to add farm land and forest land to UGBs if other land is available. This

is not a “weighing” consideration. As such, the amended goal does not make this a “factor.” Instead, it is declared in the sentence prior to the factors.

The amended goal indicates that local governments shall also consider five factors when deciding among the potential sites for inclusion in a UGB. These are essentially the same locational factors as enunciated in the original goal, but with some changes described below. It is important to understand that these factors cannot take precedent over the statutory hierarchy discussed above. Therefore, the factors would be used only to select lands within a particular land category that is available after considering the priority statute. The factors thus have a more limited role in the amended Goal 14 than in the original goal prior to the statute.

The first locational factor deals with efficiency. It is the same as the current Factor 4, but has been reworded to eliminate the term “maximum” efficiency, and to direct it toward land that is being considered in order to accommodate land needs, rather than toward the more general and possibly misunderstood focus: “within and on the fringe of a UGB”. When considering land need, local governments generally recognize that certain areas considered for UGB expansion would be more efficient in providing for a needed use (e.g., housing). The term “efficient” has been broadly interpreted, because different types of land needs may be more efficiently accommodated by different types of land. For example, if the land need is for industrial sites, local governments would consider flat sites as more efficient in meeting the site development needs of industries seeking to locate in an urban area.

The second location factor concerns the orderly and economic provision of public facilities and services. It is unchanged from the current factor.

The third factor, “natural landscape features, natural hazards, and the conservation of natural resources”, is a new factor. It has been proposed based on workgroup discussion and suggestions. These factors are critical in evaluating alternative choices for land to be added to a UGB. This factor recognizes that, generally, natural hazards and natural resources should be avoided when land without these constraints is available. It also recognizes that natural landscape features, for example rivers, canyons, prominent hills or cliffs, can and should be considered when making a choice for UGB location.

The fourth factor is unchanged. The consideration of environmental, energy, economic and social consequences was discussed at length in the workgroup, and was retained because it provides a clear requirement that local governments consider a broad range of consequences whenever they select land for inclusion in a UGB. This is not intended to be the same test as required under Goal 5, but is reflective of the test under the current exceptions process that has been eliminated from the goal with these proposed amendments.

The fifth factor is a slightly modified version of the current factor 7, requiring local governments to consider compatibility of proposed urban uses (uses inside an amended

UGB) with adjacent farm and forest practices that occur on land nearby but outside the UGB.

The department has proposed eliminating two paragraphs from the goal. The first, regarding the inclusion of the factors analysis in the comprehensive plan, needs greater clarification, and needs the provision of other option. As such, it is removed from the goal and picked up again in the proposed rule (discussed below)

The second provision in this paragraph is the requirement to “follow the procedures and requirements” for goal exceptions when amending a UGB. This requirement has been eliminated for a couple of reasons. First, it has been confusing to local governments as to whether “following” the exceptions process is the same as taking an exception. It has also been confusing in that the exceptions process includes some requirements that are also in the goal factors (i.e., do these requirements have different weight in the exceptions process than as factors?). Moreover, LCDC has provided additional rules under OAR 660, Division 004, to describe how to follow the exception process when amending a UGB, and to indicate that certain exceptions requirements do not apply. The department and the workgroup have agreed to simply eliminate the exceptions references in Goal 14 (and in OAR 660, Division 004 and Division 026). The pertinent requirements are retained in the goal through the revised factors.

Finally, the department proposes eliminating the goal requirement pertaining to requiring local governments to re-evaluate UGBs established prior to January 1, 1975. All such UGBs long ago met this requirement, so it is no longer needed.

Part 2, Urban Area Planning

This heading sets forth the planning requirements for land inside UGBs. These requirements are not necessarily new; they have already been established through interpretation of the existing goal. However, the amendments are intended to make the requirements more clear and consistent statewide. Under the related rules (discussed below), it is clear that in general, these requirements will mostly be used in planning and zoning land added to UGBs from here forward.

Conversion of Urbanizable Land to Urban Land

The goal already includes requirements pertaining to land brought into a UGB that does not currently have public facilities available, and that will likely be kept in a “holding zone” until services are provided. To make these requirements more clear, the department began by amending the definitions for “urban land” and “urbanizable land”.

The department chose to eliminate current requirements for converting urbanizable land to urban use, but then add two of these back after restating them. The eliminated requirements have multiple interpretations, and have always been the source of confusion and litigation. One retained requirement is to “manage” urbanizable land so that interim development does not preclude urban uses later. The second is to “ensure” that

urbanizable land receives services and becomes available for urban use in a “timely” manner, which is further clarified by the rule discussed below.

The department is proposing that the commission eliminate the suggestion that local governments use up the “urban land” supply before converting urbanizable land to urban use. This has been construed as a “line within a line”, preventing local governments from annexing or otherwise using urbanizable land until every piece of land already in the city is developed: an impossible standard. The other eliminated provision, adherence to other statewide goals, is already state law so does not need to be included here.

Efficient Land Use and Livable Communities

The department and the workgroup did not discuss new rules or policies regarding local government planning inside UGBs with respect to encouraging land efficiency and livable communities. The commission had indicated to the department that new policy and rules of this nature are not within the scope of this project. Nevertheless, the workgroup did discuss the fact that the current goal requires local governments to consider livability under Factor 2. We note that the North Plains UGB decision by LCDC does to some extent rely on this principle. In removing that requirement, it is reasonable to conclude that we would be losing important policy currently in the goal. Several members of the workgroup were not in favor of this. However, there appears to be more agreement that the “livability” component of Goal 14 is more understandable as a “planning requirement” than as some sort of “land need”.

At this point, the department is proposing that the goal retain a general requirement to encourage more livable communities and to use land efficiently. This is expressed in a separate section of the goal, as the following requirement: *“Comprehensive plans and implementing regulations for lands inside urban growth boundaries shall encourage the efficient use of land and the development of livable communities.”*

The workgroup has not had broad discussion regarding this particular language, although the concepts embodied in this wording have been discussed. The department believes there is general acceptance among workgroup members regarding the principle that land inside UGBs should be used efficiently in order to conserve resource land outside the boundary, land that may ultimately be consumed by UGBs and urbanization if land inside the boundary is not used efficiently. However, “efficiency” of land use is a difficult concept to explain or define. Certainly density is one component of efficiency, but by no means the only component. Even more difficult to explain or define is the concept of livability. As such, this portion of the goal is recommended by the department as a starting point for public comment and dialog. It is anticipated that additional clarity must be provided, in the goal or, more likely, in the new UGB rules, in order for this provision to be understood and implemented by local governments.

Definitions in the Goals

The Statewide Planning Goals include a set of definitions applicable to all the goals. These definitions are not included in any one goal, but the three definitions included in the attachment most pertain to Goal 14.

The department has proposed substantial revision to these definitions, primarily as a prerequisite to establishing a succinct and reasonable policy for urbanizable land. However, the proposed amended definitions do not, in our opinion, substantially depart from the current understanding of these terms by planners in the state.

Proposed New Administrative Rules regarding Urban Growth Boundaries (OAR 660, Division 024).

The department and the workgroup have provided a proposed set of new administrative rules for urban growth boundaries (attached). These new rules are intended to interpret Goal 14, and to provide a detailed set of requirements and procedures based on past practice and precedent.

The attached draft Division 024 is organized into a set of 10 different “rules”, as follows:

Purpose (660-024-0000): This rule is self-explanatory: it indicates the purpose of the rules in the division.

Definitions (660-024-0010): This draft rule includes definitions for 14 terms used throughout the division.

Adoption or Amendment of a UGB (660-024-0020): This rule indicates how UGBs are adopted or amended, which local governments must act in order to adopt or amend a UGB, and related broad requirements based on precedent.

Population Forecasts (660-024-0030): This rule provides detailed requirements and procedures for counties to use in adopting the coordinated forecast required by Goal 14 and by state law. This section also includes procedures under which cities may adopt their own forecasts and have these incorporated into the county forecast.

UGB Planning Period (60-024-0040):

This rule sets forth the requirement for a 20-year UGB planning period. That requirement derives from 30 years of LCDC precedent (all UGBs were originally acknowledged with a 20-year supply. Also, the courts have established this precedent in reviewing LCDC acknowledgements and post-acknowledgement amendments of UGBs. More important, state law establishes this time frame.

Need Estimates (660-024-0050)

This rule describes the various types of land needs that must be determined in order to amend a UGB. It also establishes several safe harbors that may be used in order to make these determinations.

Buildable Land Inventories (660-024-0060)

This section sets forth the definitions and requirements for inventorying buildable land, both inside the UGB and with respect to areas that would be added to UGBs.

Boundary Location Alternatives Analysis (660-024-0070)

This rule interprets the Goal 14 and statutory process under which local governments evaluate land outside the UGB and make a choice as to which land to add to a UGB.

Planning and Zoning of Urban and Urbanizable Land (OAR 660-024-0080)

This rule indicates in detail how local governments should interpret the conversion requirements of Goal 14 and how to protect urbanizable land until it converts to urban uses.

UGB Adjustments (660-024-0090)

These rules indicate how local government may exchange land currently in a UGB with land outside the UGB.



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

FAX (503) 378-5518

Web Address: <http://www.lcd.state.or.us>

RULEMAKING NOTICE

October 20, 2004

TO: Interested Persons
FROM: The Department of Land Conservation and Development (DLCD)
RE: **Amendments to Goals 11 and 14 and related Administrative Rules
And the Adoption of New Administrative Rules.**

The Land Conservation and Development Commission (LCDC) is considering amendments Statewide Planning Goal 11 (Public Facilities and Services) and Goal 14 (Urbanization). These proposals also involve amendments to related administrative rules under OAR 660, Divisions 004, 011, and 026, and the adoption of new administrative rules under OAR 660, Division 024. The proposed Goal and rule amendments and new rules concern two separate statewide land use policies:

1. Amendments to requirements for sewer hook-ups in areas outside urban growth boundaries. Statewide Planning Goal 11 (OAR 660-015-0000(11) and OAR 660-011-0060) would be amended to authorize sewer hook-ups to properties inside existing sewer districts and sanitary authorities, and to provide for exceptions to the goal in certain circumstances.
2. Amendments to the goal and the adoption of new rules regarding urban growth boundaries (UGBs). Statewide Planning Goal 14 (OAR 660-015-0000(14)) and related rules under OAR 660, Divisions 004 and 026 would be amended, and new rules under OAR 660, Division 024, would be adopted in order to clarify and streamline the procedures for establishing or amending UGBs.

These proposed amendments and adoption of new rules are scheduled for public hearings under a schedule provided on the back of this notice. Interested persons may provide oral or written comments at these hearings (LCDC prefers written comments instead of oral testimony). To obtain a copy of the draft proposed rule amendments, statements of need and fiscal impact, or to be placed on a mailing list, contact Shelia Preston at (503) 373-0050 Ext. 222, or email shelia.preston@state.or.us. Address written comments to the Chair of the Land Conservation and Development Commission, care of Shelia Preston, at the department's address above on the letterhead of this notice.

For questions about the Goal 11 amendments and related rulemaking, contact Doug White, at (503) 373-0050 Ext. 236, or email doug.white@state.or.us. For questions about the Goal 14 amendments, new administrative rules regarding UGBs, and amendments to related rules, contact Bob Rindy at (503) 373-0050 Ext. 229; email bob.rindy@state.or.us.

Information may also be obtained from the DLCD website: <http://www.lcd.state.or.us/>.

Amendments to Goals 11 and 14 and related Administrative Rules and the Adoption of New Administrative Rules Public Hearings

Friday, November 5, 2004, beginning 9:00 am, at the Port of Portland, 121 NW Everett St, Portland.

Monday, November 8, 2004, 6-8:00 pm, at the Deschutes Public Library, Brooks Room, 601 NW Wall Street, Bend.

Monday, November 8, 2004, 6:00pm to 8:00 pm, at the Agriculture Building, Basement Hearing Room, 635 Capitol St NE, Salem.

Monday, November 8, 2004, 7-9:00 pm, at the Washington County Building, 155 North First, Public Service Building Cafeteria, Hillsboro.

Tuesday, November 9, 2004, 6-8:00pm, at the new Bandon Library in the Sprague Community Room 6, City Park, 1204 11th St SW, Bandon.

Tuesday, November 9, 2004, 7-9:00 pm, at the Benton Plaza Hotel, Basement Meeting Room, 406 SW Monroe, Corvallis.

Tuesday, November 9, 7-9 pm, at the Daniel Chaplin Building, Earle C. Misener Conference Room, 1001 Fourth St, LaGrande.

Tuesday, November 9, 2004, 10:00am to noon, at the Warrenton City Hall, 225 S. Main Ave, Warrenton.

Tuesday, November 9, 2004, 10:00am to 3:00 pm, at the Douglas County Courthouse, 1036 SE Douglas, Room 216, Roseburg.

Wednesday, November 10, 2004, 7-9:00 pm, at the Gresham City Hall, Oregon and Springwater Trail rooms, 1333 NW Eastman Parkway, Gresham.

There will be a public hearing before the Land Conservation and Development Commission on amendments to Goal 11 and related administrative rules on **December 9, 2004, 8:30am**.

There will be public hearings before the Land Conservation and Development Commission on Goal 14 and related administrative rules on **December 8, 2004, 8:30am, and February 3, 2005, 10:00am**.

Proposed Amendments to Statewide Planning Goal 14

October 20, 2004

(NOTE: New text is underlined and deleted text is in ~~strikethrough~~).

GOAL 14: URBANIZATION

1 *To provide for an orderly and efficient transition from rural to urban land use, to*
2 *accommodate urban population and urban employment inside urban growth*
3 *boundaries, to ensure efficient use of land, and to provide for livable communities.*

4
5 **Part 1: Urban Growth Boundaries**

6
7 Urban growth boundaries shall be established and maintained by
8 incorporated cities, counties and regional governments to provide land for urban
9 development needs and to identify and separate urban and urbanizable land from
10 rural land. Establishment and change of urban growth boundaries shall be a
11 cooperative process among cities, counties and, where applicable, regional
12 governments. An urban growth boundary and amendments to the boundary shall be
13 adopted by all cities within the boundary and by the county or counties within
14 which the boundary is located, except for the Metro regional urban growth
15 boundary established pursuant to ORS Chapter 268, which shall be adopted or
16 amended by the Metropolitan Service District.

17
18 **Land Need**

19
20 Establishment and change of urban growth ~~the~~ boundaries shall be based
21 ~~upon considerations of~~ on the following factors:

22 (1) Demonstrated need to accommodate long range urban population growth
23 requirements consistent with ~~LCDC goals~~ a coordinated 20-year population
24 forecast;

25 (2) The need for land to accommodate housing, employment opportunities
26 and livability ~~other urban uses, including public facilities, streets and roads,~~
27 schools, parks and open space; and

28 (3) The efficient use of land within the existing urban area. Prior to
29 expanding an urban growth boundary, local governments shall demonstrate that
30 land needs cannot reasonably be accommodated on land already inside the urban
31 growth boundary.

32

1 **Boundary Location**

2
3 The location of the urban growth boundary and changes to the boundary
4 shall be determined by evaluating alternative boundary locations. The boundary
5 location choice shall conserve agricultural and forest land by giving these lands the
6 lowest priority for inclusion in an urban growth boundary, consistent with
7 ORS 197.298, and shall also be based on considerations of the following factors:

8 (1) Accommodation of identified land use needs in an efficient manner;

9 (2) ~~(3)~~ Orderly and economic provision of ~~for~~ public facilities and services;

10 (3) Natural landscape features, natural hazards, and the conservation of
11 natural resources;

12 (4) ~~Maximum efficiency of land uses within and on the fringe of the existing~~
13 urban area.

14 (4)~~(5)~~ Environmental, energy, economic and social consequences; and,

15 (6) ~~Retention of agricultural land as defined, with Class I being the highest~~
16 priority for retention and ~~Class VI the lowest priority.~~

17 (5)~~(7)~~ Compatibility of the proposed urban uses with nearby agricultural and
18 forest activities occurring on farm and forest land outside the UGB.

19
20 ~~The results of the above considerations shall be included in the~~
21 ~~comprehensive plan. In the case of a change of a boundary, a governing body~~
22 ~~proposing such change in the boundary separating urbanizable lands from rural~~
23 ~~land shall follow the procedures and requirements as set forth in the Land Use~~
24 ~~Planning goal (Goal 2) for goal exceptions.~~

25 ~~Any urban growth boundary established prior to January 1, 1975, which~~
26 ~~includes rural lands that have not been built upon shall be reviewed by the~~
27 ~~governing body, utilizing the same factors applicable to the establishment or~~
28 ~~change of urban growth boundaries.~~

29 ~~Establishment and change of the boundaries shall be a cooperative process~~
30 ~~between a city and county or counties that surround it.~~

31
32 **Part 2: Urban Area Planning**

33
34 **Conversion of Urbanizable Land to Urban Land**

35
36 Land within the boundaries shall be considered available over time for urban
37 uses. Comprehensive plans and implementing regulations shall:

38 (1) Manage the division and use of urbanizable land in a manner that
39 maintains its potential for efficient urban development until public facilities and
40 services are provided and the land converts to urban use; and

1 (2) Ensure the timely and economic provision of public facilities to
2 urbanizable land in order to maintain an adequate supply of serviced urban land for
3 urban development needs.

4
5 ~~Land within the boundaries separating urbanizable land from rural land shall~~
6 ~~be considered available over time for urban uses. Conversion of urbanizable land~~
7 ~~to urban uses shall be based on consideration of:~~

8 ~~(1) Orderly, economic provision for public facilities and services;~~

9 ~~(2) Availability of sufficient land for the various uses to insure choices in the~~
10 ~~market place;~~

11 ~~(3) LCDC goals or the acknowledged comprehensive plan; and,~~

12 ~~(4) Encouragement of development within urban areas before conversion of~~
13 ~~urbanizable areas.~~

14 15 **Efficient Land Use and Livable Communities**

16
17 Comprehensive plans and implementing regulations for lands inside urban
18 growth boundaries shall encourage the efficient use of land and the development of
19 livable communities.

20 21 **Part 3: Unincorporated Communities**

22
23 In unincorporated communities outside urban growth boundaries counties
24 may approve uses, public facilities and services more intensive than allowed on
25 rural lands by Goal 11 and 14, either by exception to those goals, or as provided by
26 commission rules which ensure such uses do not adversely affect agricultural and
27 forest operations and interfere with the efficient functioning of urban growth
28 boundaries.

29
30 Notwithstanding the other provisions of this goal, the commission may by
31 rule provide that this goal does not prohibit the development and use of one single-
32 family dwelling on a lot or parcel that:

33 (a) Was lawfully created;

34 (b) Lies outside any acknowledged urban growth boundary or
35 unincorporated community boundary;

36 (c) Is within an area for which an exception to Statewide Planning Goal 3
37 or 4 has been acknowledged; and

38 (d) Is planned and zoned primarily for residential use.

Note, “Guidelines” currently included under Goal 14 would be unchanged.

*Goal Definitions**

1 **URBAN LAND.** Land inside in an urban growth boundary except for urbanizable
2 land.

3
4 ~~Urban areas are those places which must have an incorporated city. Such areas~~
5 ~~may include lands adjacent to and outside the incorporated city and may also:~~

6 ~~(a) Have concentrations of persons who generally reside and work in the~~
7 ~~area, and~~

8 ~~(b) Have supporting public facilities and services.~~

9
10 **URBANIZABLE LAND.** Land inside an urban growth boundary planned for
11 urban use but that, due to the present unavailability of urban facilities and services,
12 or for other reasons, either:

13 (a) Retains the zone designations assigned prior to inclusion in the boundary;

14 or

15 (b) Is assigned other interim zone designations that maintain the potential for
16 urban development until such time as urban facilities and services become
17 available.

18
19 ~~Urbanizable lands are those lands within the urban growth boundary and which are~~
20 ~~identified and~~

21 ~~(a) Determined to be necessary and suitable for future urban uses~~

22 ~~(b) Can be served by urban services and facilities,~~

23 ~~(c) Are needed for the expansion of an urban area~~

24
25 **RURAL LAND.** ~~Rural lands are those which are~~ Land ~~outside the urban growth~~
26 ~~boundary and are that is either:~~

27 ~~(a) Non-urban agricultural, forest or open space lands or,~~

28 ~~(b) Other lands suitable for sparse settlement, small farms or acreage~~

29 ~~homesites with no or hardly any minimal public services, and which that are not~~
30 ~~suitable, necessary or intended for urban use, or.~~

31 (c) Land in rural unincorporated communities.

** Note: The Goal Definitions are not included in Goal 14, but they are adopted as part of the statewide planning goals and guidelines and provide definitions for terms used in the goals.*

*Proposed new administrative rules
October 20, 2004*

OAR 660, DIVISION 024
URBAN GROWTH BOUNDARIES

1 **660-024-0000**

2 **Purpose**

3 The purpose of this division is to interpret and clarify the procedures and
4 requirements of Goal 14 regarding the adoption and amendment of urban growth
5 boundaries (UGBs) and the conversion of urbanizable land to urban land.
6

7 **660-024-0010**

8 **Definitions**

9 For the purposes of this division, the following definitions shall apply:
10

11 (1) "Buildable land" shall have the meaning specified in OAR 660-024-
12 0060(3)(a), as clarified by related definitions in Section (3)(b) and (3)(c) of that rule.
13 Note that for purposes of this division, the term "buildable lands" includes not only land
14 for housing need defined in ORS 197.303 and in Section (4) of this rule, but also land for
15 employment need defined in Section (3) of this rule. The term "net buildable land," or "a
16 net buildable acre" means buildable land excluding land estimated to be necessary for
17 streets and other infrastructure; when infrastructure needs are included, the result is
18 "gross buildable land" or "a gross buildable acre."
19

20 (2) "Coordinated" shall have the meaning specified in ORS 197.015(5), except
21 that a "coordinated population forecast" means the forecast described under OAR 660-
22 024-0030.
23

24 (3) "Employment need" means the need for a long term supply of land to
25 accommodate industrial and commercial uses in the urban area required by Goal 9 and
26 described under OAR 660-009-0025(1) and (2).
27

28 (4) "Housing need" means the need for housing and various housing types
29 described in Goal 10 and OAR 660, Divisions 7 or 8, and ORS 197.303.
30

31 (5) "Local government" means city, county or regional governments described
32 under ORS 197.015(13).
33

34 (6) "Regional government" means a regional government described under
35 ORS Chapter 268, for example, the Portland area Metropolitan Service District.
36

1 (7) “Regional UGB” is a UGB adopted by a regional government. A UGB that
2 includes more than one incorporated city but is not adopted by a regional government (for
3 example, the Eugene-Springfield Metropolitan UGB) is not a “regional UGB”.

4
5 (8) “Rural land” means land outside urban growth boundaries that is either
6 (a) Non-urban agricultural, forest or open space land;
7 (b) Other lands suitable for sparse settlement, small farms or acreage home sites
8 with no or minimal public services, and that are not suitable, necessary or intended for
9 urban use; or
10 (c) Land in rural unincorporated communities.

11
12 (9) “Safe harbor” means an optional course of action that satisfies certain specific
13 requirements of this division. A safe harbor may provide a numeric standard for a
14 community to use in calculating land need or land supply, density, growth rate or other
15 variable. A safe harbor is not intended as a preferred alternative to a requirement, nor is it
16 intended to help interpret the meaning of a requirement or words or phrases in a
17 requirement. *See endnote on page 18 regarding safe-harbor “numbers”¹.*

18
19 (10) “Twenty-year (or 20-year) planning period” means an approximate 20-year
20 planning period for population forecasts, land need estimates, and land supply analyses
21 for establishing or amending a UGB. In this context, the term “approximate” is intended
22 to recognize that these long-range forecasts are estimates which, although based on the
23 best available information and methodologies, should not be held to an unreasonably high
24 level of precision. The term “approximate” does not mean that a jurisdiction may choose
25 a different time frame for establishing or amending a UGB, for example, an 18-year or
26 22-year planning period.

27
28 (11) “UGB” means “urban growth boundary.”

29
30 (12) “Urban area” means land inside an urban growth boundary.

31
32 (13) “Urban land” means land inside in an urban growth boundary except for
33 urbanizable land.

34
35 (14) “Urbanizable land” means land inside an urban growth boundary planned for
36 urban use but that, due to the present unavailability of urban facilities and services, or for
37 other reasons, either:

38 (a) Retains the zone designations assigned prior to inclusion in the boundary; or
39 (b) Is assigned other interim zone designations that maintain the potential for
40 urban development until such time as urban facilities and services become available.

1 **660-024-0020**

2 **Adoption or Amendment of a UGB**

3 (1) An urban growth boundary and amendments to the boundary shall be adopted
4 by all cities within the boundary and by the county or counties within which the boundary
5 is located, except for the Metro regional urban growth boundary established pursuant to
6 ORS Chapter 268, which shall be adopted or amended by the Metropolitan Service
7 District. When a UGB includes more than one incorporated city, the cities, and of the
8 counties within which these cities are located, shall mutually agree on the location of the
9 UGB and any amendments to the UGB.

10
11 (2) The establishment or change of a UGB shall be based on the three land need
12 factors of Goal 14. These three factors are interdependent, and must be considered
13 together, and the results of this consideration must be included in the comprehensive plan
14 or in findings that are referenced by the plan. This division, under OAR 660-024-0050,
15 provides a detailed explanation, requirements, procedures, and safe harbors for
16 addressing the land need factors.

17
18 (3) In establishing or amending a UGB, the local government shall determine the
19 location of the boundary by evaluating alternative boundary locations using the location
20 factors in Goal 14. This evaluation must be documented in the comprehensive plan or in
21 findings that are referenced by the plan. This division, under OAR 660-024-0070,
22 provides detailed requirements, procedures, and safe harbors for addressing the boundary
23 location factors.

24
25 (4) Within a regional UGB the regional government, rather than cities and
26 counties within the jurisdiction of the regional government, shall follow the requirements
27 of Goal 14 for establishing or amending a UGB. The regional UGB applies to the
28 comprehensive plans of those cities and counties within the regional government's
29 jurisdiction. In order to meet the requirements of Goal 14, those city and county
30 governments shall adopt plan and zone provisions consistent with applicable functional
31 plans adopted by the regional government.

32
33 (5) Local governments shall comply with all statewide goal requirements when
34 amending a UGB. However, certain goals and rules apply as follows:

35 (a) The exceptions process under Goal 2 and OAR 660, Division 004, is not
36 required in order to adopt or amend a UGB unless a local government seeks an exception
37 to a Goal 14 requirement.

38 (b) Goals 3 and 4 do not apply when amending a UGB. Land inside UGBs shall be
39 planned for urban uses rather than for farm or forest uses, except for urbanizable land as
40 specified in OAR 660-024-0080 and in ORS 197.752 through 197.756.

41 (c) Local governments amending a UGB must inventory resources on land added
42 to the UGB under the requirements of Goal 5 and OAR 660, Division 023, and must

1 address the requirements of that goal and rule only with respect to significant resources
2 on such land, except as required under OAR 660-023-0070 and 660-023-0250.

3 (d) The transportation planning rule requirements under OAR 660-012-0060 need
4 not be addressed at the time of UGB amendment if the local government is not required
5 to amend existing plan or zoning designations for lands affected by that rule as a result of
6 the UGB amendment.

7 (e) The local government shall demonstrate consistency with Goals 16, 17, and 18
8 for any areas included in a UGB amendment that are also within a coastal shorelands
9 boundary.

10
11 (6) When establishing or amending a UGB, local governments shall provide notice
12 to affected cities, counties, state agencies, and special districts within three miles of the
13 UGB, under the timelines provided in ORS 197.610 through 197.615 for notice to the
14 Department of Land Conservation and Development.

15
16 (7) The UGB and amendments to the UGB shall be shown on the city and county
17 plan and zone maps at a scale sufficient to determine which particular lots or parcels are
18 included in the UGB. Where a UGB does not follow lot or parcel lines, the map shall
19 provide sufficient information to determine the precise UGB location.

20
21 (8) A decision to establish or amend a UGB shall not be considered final for
22 purposes of LCDC review under ORS 197.626, or for purposes of appeal under ORS
23 197.610 through 197.625, until adopted by all applicable local governments specified
24 under Section (1) of this rule, except as provided in Subsection (a) or (b) of this section:

25 (a) An approved periodic review work program may specify that LCDC review of
26 the city's or the county's adoption of the UGB may occur on a different schedule;

27 (b) A UGB adopted by a regional government shall be final when adopted by the
28 regional government.

29
30 (9) A city with a population of 2,500 or more within its UGB that amends the
31 UGB to include additional land that is more than 50 acres, except for cities within a
32 regional UGB, and a regional government that amends the UGB to include additional
33 land that is more than 100 acres, shall submit the amendment to LCDC to determine
34 compliance with the statewide planning goals under the procedures for periodic review,
35 as specified in ORS 197.626.

36
37 **660-024-0030**

38 **Population Forecasts**

39 (1) All counties must adopt and periodically update a coordinated 20-year
40 population forecast for the county as part of the comprehensive plan, in conformance
41 with ORS 195.036. A regional government must adopt and periodically update a 20-year
42 population forecast for the area within its jurisdiction. The population forecast for a
43 county shall be based on and consistent with forecasts for individual urban areas within

1 the county. This does not necessarily mean that all forecasts for UGBs within the county
2 must be adopted at the same time and must apply to the same 20-year planning period.
3 However, if the forecasts are adopted at different times, the county shall ensure that the
4 growth rates and other key assumptions are consistent with the overall forecast, as
5 provided in Sections (3) and (6) of this rule.
6

7 (2) The county shall develop the coordinated population forecast using one the
8 following methods:

9 (a) The county may develop the forecast by allocating a portion of the total county
10 population forecast to each urban area within the county and a portion to the rural areas
11 of the county, and then combining all the allocated urban area forecasts with the rural
12 area forecast. In allocating population to urban areas, the county shall consider individual
13 urban area plans, transportation and public facilities plans, employment and economic
14 development plans and forecasts, and the statewide goals;

15 (b) The county may develop a coordinated county forecast by combining forecasts
16 for the urban areas within the county developed by individual cities, along with the
17 county's forecast for rural areas of the county. Each city's forecast must be developed
18 consistent with Section (3) of this rule, and shall be submitted to the county for review
19 and adoption as part of the county forecast; or

20 (c) The county may develop a coordinated county forecast using a combination of
21 the methods described under Subsections (a) and (b) of this section.
22

23 (3) A coordinated population forecast for a county or region, and any urban area
24 forecast developed by a city and submitted to the county in accordance with Subsection
25 (2)(b) of this rule, shall meet the requirements of either Subsection (a), (b), or (c) of this
26 section:

27 (a) The forecast must be consistent with the most recent long-range forecast for
28 the county or region determined by the Oregon Office of Economic Analysis (OEA).
29 Since OEA's forecasts and growth rates are in 5-year increments, an average of these
30 increments over the 20-year period is considered "consistent" for purposes of this
31 subsection;

32 (b) The forecast shall be developed using commonly accepted methodologies,
33 standards and practices for population forecasting, such as those used by professional
34 practitioners in the field of demography or economics. The data and assumptions used to
35 develop the forecast shall be derived from current, reliable and objective sources. Any
36 significant change to current or historic assumptions regarding birth rates, migration, job-
37 creation, employment and other measurable long-term variables supporting the forecast
38 shall be based on verifiable factual information, including documented long-term
39 demographic trends. The forecast may consider recent events that have a reasonable
40 likelihood of changing historic trends, such as the siting of a significant new employment
41 generator or the construction of a sewer system or other key public facility not previously
42 available. This rule is not intended to prevent a city or county from adopting economic
43 development plans that, if successful, might result in population and employment growth

1 greater than the amount forecast. However, such plans alone are not a sufficient basis for
2 presuming an increase in population trends; or

3 (c) If the current OEA forecast indicates a declining population for the county, the
4 county may continue to use the previously acknowledged forecast as a basis for
5 allocating population to urban areas in the county. If the county forecast allocates a
6 population to an urban area that is less than previously acknowledged, local governments
7 in that urban area may determine urban area land needs based on the previously
8 acknowledged forecast.

9
10 (4) A county may coordinate with one or more adjacent counties in preparation of
11 a combined population forecast for more than one county. Counties and cities may
12 voluntarily join together as a regional planning agency, as authorized in ORS 190.003
13 through 190.620 and ORS 195.025, or in an association described in ORS 195.025(4). In
14 this case, that agency or association shall perform the coordinating function and adopt the
15 forecast and allocations in accordance with Sections (1) and (2) of this rule.

16
17 (5) The county must adopt findings and an adequate factual base to support the
18 coordinated population forecast, or an amendment to the forecast. At least 45 days prior
19 to adoption or amendment of a county population forecast, including an amendment in
20 response to a forecast submitted by one or more cities pursuant to Subsection (2)(b) of
21 this rule, the county must notify the public in accordance with acknowledged citizen
22 involvement provisions in the county's plan, and must notify cities, affected regional
23 governments, special districts in the county, and affected state agencies including but not
24 limited to the state's Office of Economic Analysis and the Department of Land
25 Conservation and Development and agencies with responsibilities for transportation,
26 resource management, or the provision of public services in the county or region.

27
28 (6) If the county has not adopted a population forecast allocating population to
29 urban areas in the county at the time a city initiates consideration of an amendment to its
30 UGB, or if the county forecast is out of date to the extent that it does not provide a 20-
31 year forecast for the urban area, the city may develop a population forecast for the urban
32 area and propose an amendment to the county's forecast or an amendment to the urban
33 area population allocated in that forecast, as described in Section (2) of this rule. The
34 county must consider the proposed amendment under the procedures of ORS 197.610 or
35 197.628, whichever is applicable, or in accordance with previously adopted agreement
36 between the city and county. The city shall develop the urban area forecast using one of
37 the following methods:

38 (a) The city may develop a population forecast for the urban area as described
39 under Section (3) of this rule;

40 (b) The city may forecast a 20-year population for the UGB using the same 20-
41 year growth rate for the county determined using the most recent OEA forecast;

42 (c) If the most recent county forecast, or the city's independent forecast developed
43 pursuant to Section (3) of this rule, indicates a lower 20-year population forecast for the

1 urban area than previously acknowledged, the city may use the previously acknowledged
2 20-year population forecast for the urban area; or

3 (d) Cities under 2,500 in population may forecast a 20-year population by
4 projecting the average growth rate for the previous 30-year period.

5
6 (7) If a local government adopts a population forecast in a land use plan for
7 reasons other than the establishment or amendment of the UGB (for example, a forecast
8 for a sewer or transportation facilities plan), including a forecast that uses a planning
9 period other than the 20-year UGB planning period required under OAR
10 660-024-0040(1), the growth rate and other assumptions in that forecast shall be
11 consistent with the population forecast used for determining land needs in the UGB.
12

13 **660-024-0040**

14 **UGB Planning Period**

15 (1) An urban growth boundary shall provide sufficient urban and urbanizable land
16 to accommodate the estimated housing and employment needs in the urban area, and
17 associated land needs described in Goal 14 and Section (2) of this rule, for a 20-year
18 planning period. The land need for these uses shall be estimated based on the coordinated
19 20-year population forecast for the urban area, pursuant to the requirements of OAR 660-
20 024-0030 and this rule. In determining whether the boundary contains an adequate supply
21 of land to meet the forecast 20-year needs, local governments shall inventory land supply
22 inside the UGB in accordance with OAR 660-024-0050 through 660-024-0070, and in
23 accordance with ORS 197.296 for urban areas required to follow that statute.
24

25 (2) When established and at other times specified in Section (4) of this rule a UGB
26 shall contain a land supply sufficient to meet estimated needs consistent with Section (1)
27 of this rule. The land supply may decrease between periodic reviews or other updates of
28 the UGB due to new development or for other reasons. As such, a UGB may contain less
29 than a 20-year supply of land during these time periods. However, in no case shall a UGB
30 be amended to include an amount of land in excess of or less than a 20-year supply.
31

32 (3) Notwithstanding Section (2) of this rule, local governments are not required to
33 remove land from an urban growth boundary acknowledged prior to the effective date of
34 this rule.
35

36 (4) Local governments may initiate a process to evaluate or amend the UGB at any
37 time in order to provide for an estimated 20-year land need, either through the post-
38 acknowledgment provisions of OAR 197.610 through 197.626 or during periodic review
39 under ORS 197.628 through ORS 197.644. Local governments are required evaluate the
40 buildable land supply in the UGB and, if necessary based on that evaluation, implement
41 measures to provide a 20-year supply of land for housing, employment, and other
42 identified needs, which may include amending the UGB, at the following times:

43 (a) At periodic review;

1 (b) During an “other legislative review” of the UGB for housing needs, as defined
2 under Section (5) of this rule, in accordance with ORS 197.296, for local governments
3 specified in the statute; and

4 (c) At times specified under ORS 197.299 through 197.302 for a regional UGB,
5 with respect to accommodation of housing needs.
6

7 (5) For purposes of Subsection (4)(b) of this rule for local governments required to
8 follow ORS 197.296, a “legislative review of the UGB” means an evaluation of the UGB
9 under ORS 197.610 through 197.626 initiated by a local government in order to

10 (a) Estimate the 20-year housing needs for the urban area,

11 (b) Inventory land inside the UGB to determine whether there is sufficient
12 buildable land to meet such needs; and

13 (c) If necessary, based on this inventory, change zoning or take other measures
14 inside the UGB or consider an amendment to the UGB in order to provide sufficient
15 buildable land to meet housing needs.
16

17 **660-024-0050**

18 **Need Estimates**

19 (1) The establishment or amendment of a UGB shall be supported by an estimate
20 of the amount and type of land needed inside the urban area for housing and employment
21 over the 20-year planning period, as follows:

22 (a) Housing need: Local governments shall estimate the amount of buildable land
23 needed for housing consistent with provisions of Goal 10, OAR 660, Divisions 007 and
24 008, ORS 197.295 through 197.314 and other applicable laws. Local governments may
25 rely on the safe harbors under Section (5) of this rule in estimating housing need.

26 (b) Employment need: Local governments shall estimate the amount of buildable
27 land for needed for employment opportunities over the planning period. The estimate
28 shall indicate the 20-year land need amount based on the approximate acreage of needed
29 sites and related site requirements for particular categories of commercial and industrial
30 uses consistent with Goal 9, OAR 660, Division 009 and other applicable laws. In
31 estimating such needs, local governments may rely on employment forecasts, including
32 employee density forecasts for particular categories of commercial and industrial uses,
33 and may rely on the safe harbors provided under Sections (6) and (7) of this rule.
34

35 (2) When estimating land need for housing or employment under Section (1) of
36 this rule, a local government must also estimate land need for other urban uses and
37 facilities described in Subsections (a) through (c) of this section, and must consider these
38 other urban needs as required under OAR 660-024-0060. These other urban land needs
39 include the following:

40 (a) Transportation and public facilities: Local governments must estimate land
41 necessary for sewer, water, and drainage systems, and for streets, roads and other
42 transportation facilities, consistent with the requirements in Goals 11 and 12, related rules

1 and applicable laws. Local governments may use the safe harbors under Section (8) of
2 this rule and OAR 660-024-0060(4) for these estimates.

3 (b) Public uses: Local governments shall estimate land necessary for school
4 facilities and other public uses consistent with current and historic amounts of land
5 developed for such uses. Local governments may use the safe harbors under Sections (9)
6 and (10) of this rule and OAR 660-024-0060(4) for these estimates. Local governments
7 shall coordinate with affected public school districts in estimating the land necessary for
8 new public school facilities. It is not necessary to identify future public school sites, but
9 the general areas where schools will be needed must be identified. School district
10 ownership of a potential school site outside an existing UGB is not a sufficient reason for
11 amending the UGB to include the site.

12 (c) Open space: Local governments shall determine the amount of land inside the
13 UGB needed for parks and open space. The need for parkland must be estimated in
14 coordination with any affected park districts. It is not necessary to identify future public
15 park sites at the time of UGB adoption or amendment provided the local government has
16 adopted programs and targets for park acquisition, including funding mechanisms and
17 other measures that give reasonable assurance that public parks will be provided inside
18 the UGB at a level consistent with the projection. Local governments may use the safe
19 harbor under Section (11) of this rule in order to estimate park needs.

20
21 (3) When estimating land need, a local government may identify specific types of
22 land need (see ORS 197.298(3)(a)). A “specific type of identified land need” is the need
23 for a particular use of land that:

24 (a) Is a subset of one of the general categories of need specified in Section (1) of
25 this rule, but is not a subregional need defined under OAR 660, Division 026; and

26 (b) Requires special identified site characteristics, including but not limited to a
27 particular location or particular site characteristics, for example, a light-industrial site that
28 has access to two railroad lines.

29
30 (4) Notwithstanding the requirements of OAR 660-024-0040 and Section (1) of
31 this rule, a local government may review and amend the UGB in consideration of one
32 category of land need (for example, housing need) without a simultaneous review other
33 categories of land need (for example, employment need), unless the proposed UGB
34 amendment would significantly affect other types of land need. Local governments may
35 consider a quasi-judicial amendment of a UGB involving specific parcels or lots, or to
36 provide a portion of the 20-year need for a specific need category, provided the boundary
37 location requirements of Goal 14 and this division are followed.

38
39 (5) When estimating housing needs under Section (1)(a) of this rule, local
40 governments may use the following safe harbors in Subsections (a) through (h) of this
41 section:

42 (a) For estimating the mix of housing types needed in the urban area for the 20-
43 year planning period, a local government may assume need for a 50:50 ratio of new,

1 detached single-family housing types to new, attached housing types. For purposes of this
2 safe harbor, detached single-family housing includes manufactured dwellings on
3 individual lots, and attached single-family housing includes duplexes, manufactured
4 homes in parks, townhouses, condominiums, and multiple-family housing. This safe
5 harbor does not excuse the local government from indicating the percentage of each of
6 these housing types within the general categories of detached and attached housing.
7

8 (b) A local government may assume a 5% vacancy rate for all housing types over
9 the 20-year planning period. Alternatively, a local government may assume a 2% vacancy
10 rate for detached single-family dwellings, and a 7% vacancy rate for attached housing
11 types.
12

13 (c) When estimating household size for the planning period, a local government
14 may apply the average of the actual city household size determined in the previous two
15 U.S. Censuses.
16

17 (d) If a city allows manufactured homes on individual lots as a permitted use in
18 residential zones that allow ten or fewer dwelling units per net buildable acre (i.e., zones
19 with a minimum lot size of 4,356 square feet or greater), there is no obligation to make a
20 separate need projection for manufactured dwellings on individual lots.
21

22 (e) If a city allows manufactured dwellings in manufactured dwelling parks in all
23 residential zones that allow for housing in the 6-12 units-per-gross-acre density range,
24 there is no obligation to estimate the need for manufactured dwelling parks separate from
25 the overall estimate of the need for single family dwellings in that density range. For
26 purposes of this Subsection, a “gross-acre” refers to buildable land including land that
27 would presumably be needed for streets and other infrastructure.
28

29 (f) If the city or county zoning for the urban area does not regulate housing based
30 on funding source, then the city or county is not required to demonstrate that it has
31 provided for government-assisted housing.
32

33 (g) As a safe harbor for estimating the average density for all needed housing in
34 the urban area over the planning period, local governments may assume:

35 (i) Either 6, 8 or 10 dwelling units per net buildable acre, (*NOTE: this safe*
36 *harbor would vary depend on size and location of community; the department is*
37 *currently conducting research prior to support a more detailed proposal allocating these*
38 *safe-harbor densities based on community size or location*); or

39 (ii) Assume a 20% increase in the current housing density in the urban area.
40

41 (h) As an alternative safe harbor for the mix assumption described in
42 Subsection (a) of this section, local governments that have provided buildable land in the

1 urban area for all the needed housing types listed in ORS 197.303 under clear and
2 objective standards, as required under ORS 197.307(3)(b), shall:

3 (i) Determine the mix of needed housing types built in the urban area during
4 the previous 10 years, and then

5 (ii) Decrease the percentage of detached single family homes by 10% or more,
6 and apply the difference to all other needed housing types in order to derive a ratio to use
7 in estimating housing mix over the planning period (for example, if the actual single-
8 family percentage built was 55% of all housing types, the safe harbor would be 45%
9 single-family detached housing and 55% for all other housing types).

10
11 (6) As safe harbors for estimating commercial land employee density, the local
12 government may use the following assumptions:

13 (a) If the urban area includes a population of 25,000 or larger, or meets criteria
14 established by LCDC under 197.296(1)(b), the local government may assume
15 employment density for new commercial development will be 30 employees per net
16 buildable acre, or greater;

17 (b) For all other communities, the local government may assume employment
18 density for new commercial development will be 20 employees per net buildable acre or
19 greater.

20
21 (7) As a safe harbor for industrial land employee density, the local government
22 may use the following assumptions:

23 (a) If the urban area includes a population of 25,000 or larger, or meets criteria
24 established by LCDC under 197.296(1)(b), the local government may assume employee
25 density for new industrial development will be 15 employees per net buildable acre or
26 greater;

27 (b) For all other communities, the local government may assume employee density
28 for new industrial development will be 10 employees per net buildable acre or greater.

29
30 (8) As a safe harbor for estimating the total amount of land needed for
31 transportation and public facilities under Subsection (2)(a) of this rule, local governments
32 may express such needs as a proportion of housing and employment needs, as follows:

33 (a) 25% of the total amount of land estimated as necessary to meet housing and
34 employment needs determined pursuant to Section (1) of this rule; or

35 (b) The percentage of total land in the planning area demonstrated to have been
36 consumed over the previous 20 years by transportation and public facilities uses.

37
38 (9) As a safe harbor for determining the amount of land needed for public and
39 semi-public uses under Subsection (2)(b) of this section, local governments may assume
40 that these uses will require 5% of buildable land estimated for residential uses under
41 Subsection (1)(a) of this rule.

1 (10) As a safe harbor for estimating the amount of land needed for schools, the
2 local government may assume a continuation of the existing ratio of developed school
3 land to population. For purposes of this section, school land is developed if it is occupied
4 by buildings, parking, or active sports facilities. As an alternative safe harbor, if the
5 school district has a facilities plan that complies with ORS 195.110(1) or ORS
6 195.110(6) and estimates the land necessary for school needs for the 20-year planning
7 period, the city may rely on the land need estimates in the school district's plan.
8

9 (11) As a safe harbor for determining land needed for public parks, the local
10 government may assume that the need is equivalent to the national standard of 5 acres per
11 1,000 population. If the relevant park district has adopted a facilities plan that estimates
12 park needs for a 20-year planning period, the city may rely on this plan instead. There is
13 no additional burden to show funding source for parks, but the city must indicate park
14 needs by type of park, especially active (intensively developed) vs. passive (nature) park
15 uses.
16

17 **660-024-0060**

18 **Buildable Land Inventories**

19 (1) In establishing or amending a UGB, a local government shall inventory land in
20 the UGB to determine whether it contains an adequate supply of buildable land to
21 accommodate the estimated 20-year housing and employment needs determined under
22 OAR 660-024-0040 through 660-024-0050, specific needs under OAR 660-024-0050(3)
23 and other urban needs under OAR 660-024-0050 (2)(a) through (2)(c). This
24 determination shall also consider land necessary for transportation and public facilities,
25 public and semi-public uses, open space. The additional inventory requirements for
26 residential land in ORS 197.296 also apply to local governments specified in that statute.
27

28 (2) If the inventory of land indicates that a UGB does not contain sufficient
29 buildable land to accommodate land needs estimated under OAR 660-024-0040 and 660-
30 024-0050, and considering land necessary for other uses estimated in conformance with
31 OAR 660-024-0050(2), the local government shall:

32 (a) Determine whether some or all of these needs can be met without expansion of
33 the UGB by the adoption of measures to increase the efficiency of development on urban
34 and urbanizable land. Local governments shall adopt such measures as are determined
35 practicable and reasonably likely to provide for some or all of the identified land needs,
36 and consistent with ORS 197.296 for local governments subject to those provisions.

37 (b) If measures adopted under Subsection (a) of this section are not sufficient to
38 accommodate the land needs for the planning period identified under OAR 660-024-0040
39 and 660-024-0050, the local government shall amend the UGB to provide sufficient
40 buildable lands to meet identified needs. A local government shall demonstrate that lands
41 added to the UGB:

42 (i) Include sufficient buildable land to meet all identified housing and
43 employment land needs;

1 (ii) Include sufficient land for other needs determined under OAR 660-024-
2 0050(2); and

3 (iii) Are planned and zoned to meet these needs in accordance with OAR 660-
4 024-0080.

5
6 (3) For purposes of this rule:

7 (a) “Buildable land” means land in the UGB that is suitable and available for the
8 development of housing and employment needs determined under OAR 660-024-0050.
9 Buildable land includes vacant urban and urbanizable land designated for development
10 that is not constrained by natural hazard or natural resource protection regulations that
11 preclude or substantially restrict development. Natural resources and natural hazards
12 include wetlands, riparian areas, wildlife habitat, water areas, flood plains and steep
13 slopes. The inventory shall include vacant, partially vacant and lands likely to be infilled
14 or redeveloped.

15 (b) “Land likely to be infilled or redeveloped” means land on which development
16 has already occurred but on which, due to present or expected market forces, there exists
17 the likelihood that existing development and/or vacant areas in and around existing
18 development will be converted to more intensive use during the planning period. As a
19 safe harbor, redevelopable land may be defined as lots where the value of improvements
20 on the land is less than or equal to the value of the land itself, based on tax assessor’s
21 records, or may use the safe harbor described under Subsection (4)(f) of this rule;

22 (c) “Suitable and available” means the buildable land is designated for and can
23 reasonably accommodate the needed use considering any identified site requirements for
24 the use.

25
26 (4) As safe harbors, local governments may use one or more of the following
27 assumptions in inventorying buildable lands for housing needs:

28 (a) For lots of one-half acre or greater with an existing residence, **one-quarter of an**
29 **acre** may be subtracted and the remainder of the lot assumed to be buildable;

30 (b) Existing lots of less than one-half acre that are currently occupied by a
31 residence valued at greater than the land itself, based on tax assessor’s records, may be
32 assumed to be fully developed.

33 (c) To determine infill potential on developed residential lots or parcels of one
34 acre or more, the local government may remove **one-quarter acre** (10,890 square feet) for
35 each existing house on such parcels.

36 (d) To determine the redevelopment potential of residential parcels, local
37 governments may assume that parcels are fully redevelopable if they either have no
38 existing residential unit or of they have an assessed improvement value of less than
39 **\$25,000**.

40 (e) Natural resource areas (e.g., wetlands, riparian corridors, wildlife habitat areas,
41 beaches, dunes or estuaries) that are protected by plan and zone provisions that prevent
42 the development of housing or employment uses shall be removed from the buildable

1 lands inventory. Portions of lots or parcels that are buildable shall be included in the
2 inventory.

3
4 **660-024-0070**

5 **Boundary Location Alternatives Analysis**

6 (1) When establishing or amending a UGB, local governments must comply with
7 ORS 197.298 (priority of land to be included within UGB) and must consider the
8 locational factors of Goal 14 in evaluating alternative locations for the UGB and in
9 determining whether inclusion of land complies with Goal 14. The alternatives analysis
10 required by Goal 14 is provided in Sections (2) through (7) of this rule. The evaluation
11 and analysis shall conserve agricultural and forest land by giving these lands the lowest
12 priority for inclusion in an urban growth boundary, consistent with ORS 197.298, and
13 shall also be based on consideration of the five boundary location factors in Goal 14.
14 These location factors are not independent approval criteria; a local government must
15 consider and balance them in determining the best land to add to a UGB.

16
17 (2) Prior to consideration of the locational factors of Goal 14, a local government
18 shall assign the appropriate priority to land being considered for inclusion within the
19 UGB, pursuant to ORS 197.298(1) and (2).

20
21 (3) For purposes of this rule, “land adjacent to the UGB” is not limited to those
22 lots or parcels that abut the UGB, but also includes areas of land that are within the
23 vicinity of the UGB and have a reasonable potential to satisfy the identified need,
24 including exception areas, rural communities, and farm or forest areas.

25
26 (4) Beginning with the highest priority of land available, the local government
27 shall determine whether land in that priority is adequate to accommodate the amount of
28 land need estimated under OAR 660-024-0040 and 660-024-0050. If land in that priority
29 is not adequate, the local government shall determine whether the land in the next priority
30 is adequate to accommodate its remaining need for land. If a local government
31 determines that there is more land than needed in a particular land priority, the local
32 government shall consider the location factors of Goal 14 to determine which land in that
33 priority to include in the UGB in order to comply with Goal 14.

34
35 (5) In determining whether the supply of land is adequate to accommodate the
36 amount of land needed under Section (4) of this rule, local government may limit its
37 consideration to land with those particular site characteristics identified as necessary in
38 order to accommodate any of the subcategories of land need determined under OAR 660-
39 024-0050(1) through 660-024-0050(3).

40
41 (6) The alternatives analysis shall indicate on a map or specifically describe the
42 location of the alternative areas considered within each priority category. If the analysis
43 of land within a priority category involves more than one area for which the reasons and

1 circumstances are the same, the areas may be considered as a group for the alternative
2 sites analysis.

3
4 (7) A local government may include lower priority land in the UGB, even if there
5 is enough land in a higher priority to accommodate the need, for one of the reasons set
6 forth in ORS 197.298(3), with consideration of the following:

7 (a) For purposes of ORS 197.298(3)(a) and this rule, a “specific land need cannot
8 be reasonably accommodated” in a particular area if particular site characteristics are
9 required in order to reasonably accommodate the need, including but not limited to
10 location, size, or topography, and the local government has demonstrated that sufficient
11 land in the particular area does not have these characteristics.

12 (b) For purposes of ORS 197.298(3)(b), a local government may consider the
13 estimated cost of public facilities and services when determining whether urban services
14 can “reasonably be provided” to land with topographic or other physical constraints,
15 including the comparative cost to services in other areas. However, whereas the provision
16 of public facilities and services is generally less expensive on agricultural land compared
17 to other types of land, the cost of public facilities and services, including the comparative
18 cost, shall not be the sole consideration, and must be balanced with state policy to protect
19 agricultural land as set forth in Goal 14, this division and 215.243.

20 21 **OAR 660-024-0080**

22 **Planning and Zoning of Urban and Urbanizable Land**

23 (1) The findings in support of the UGB amendment shall clearly identify which
24 land has been added to a UGB in order to satisfy each of the particular need deficiencies
25 identified under OAR 660-024-0060(2)(b). This land must be assigned plan map
26 designations to provide for the land needs, in the amounts identified, and local
27 governments shall either:

28 (a) Zone the land for planned urban uses consistent with Section (2) of this rule;
29 or,

30 (b) If urban facilities and services are not available, or for other reasons indicated
31 in the plan and UGB amendment findings, maintain the plan and zone designations
32 assigned to the land prior to its inclusion in the UGB, or adopt other interim zoning
33 consistent with Sections (5) or (6) of this rule, until public facilities and services are
34 available and the land is rezoned for urban uses consistent with Section (2) of this rule.

35
36 (2) Except for land described under Subsection (1)(b) of this rule, local
37 governments shall zone land added to a UGB for the needed urban uses in accordance
38 with OAR 660-024-0060(2)(b). For needed residential land, plan provisions shall specify
39 the planned housing types and density and the local government shall adopt clear and
40 objective standards under which such land can be developed consistent with Goal 10,
41 OAR 660 Division 7 or 8, whichever is applicable, and ORS 197.295 through 197.314
42 and any other applicable laws. If the land added to the UGB includes resources
43 inventoried under Goals 5 or 16 through 18, the land shall be maintained as urbanizable

1 land under Section (1) of this rule until the local government meets the applicable
2 requirements of those goals.

3
4 (3) When amending a UGB, those local governments required to adopt a road
5 plan under OAR 660-012-0020(2)(b) shall adopt a plan that meets the requirements of
6 that Subsection and that is consistent with any adopted regional and local transportation
7 system plan.

8
9 (4) If mixed uses are planned for areas added to a UGB, the plan shall specify the
10 percentage of each of the types of uses planned for the mixed-use area. If needed
11 housing is to be provided within mixed-use areas, cities and counties shall also adopt
12 provisions to assure the needed housing will be provided under clear and objective
13 approval standards consistent with Goal 10 and ORS 197.307.

14
15 (5) Land planned under Subsection (1)(b) of this rule shall be considered
16 “urbanizable land” as defined in the statewide goals and in OAR 660-024-0010(14).
17 Local governments shall adopt measures that manage the division and use of urbanizable
18 land in a manner that maintains its potential for efficient urban development until public
19 facilities and services are provided and the land is rezoned for urban uses consistent with
20 Section (2) of this rule. Such measures may include, but are not limited, to:

21 (a) Interim minimum lot sizes to maintain these lots in large sizes (e.g., 20-acres)
22 capable of further subdivision and infill after the land is rezoned for urban uses;

23 (b) Limitations on the types and locations of interim rural development so as not to
24 preclude the efficient provision of sewer, water, and road facilities; or

25 (c) “Shadow plats” or other methods that indicate a future land division pattern
26 and future street alignments in order to prevent development inconsistent with the future
27 plat, so as to conserve land for future subdivision or other types of development intended
28 by the comprehensive plan.

29
30 (6) As a safe harbor in lieu of Subsections (5)(a) through (c) of this rule, local
31 governments may adopt the following measures for urbanizable lands until roads, sewer
32 and water services and other public facilities necessary for planned levels of urban
33 development are provided:

34 (a) A 10-acre or larger minimum lot size requirement for new land divisions; and

35 (b) Land development code provisions that ensure any interim development that
36 occurs prior to the conversion of the area to urban zoning is consistent with the mapped
37 locations of planned arterials and collectors.

38
39 (7) To ensure an adequate supply of serviced land is available for projected urban
40 area housing and employment, local governments shall adopt clear and objective
41 procedures and standards for the conversion of urbanizable land to urban land. The
42 procedures and standards shall implement public facility plans for urban areas required
43 by Goal 11, and shall not have the effect of discouraging conversion of urbanizable land

1 to urban land for planned urban development. Such procedures and standards shall
2 ensure:

3 (a) The provision of urban services to urbanizable areas required by the
4 jurisdiction for full urban development under the timelines specified in OAR 660,
5 Division 011;

6 (b) A short-term supply of serviceable employment sites required under OAR 660-
7 009-0025(3); and

8 (c) Amendments in zoning and other regulations as necessary to allow for planned
9 urban development at such time as public facilities and services are available.

10
11 (8) Local governments shall cooperatively enter into Urban Growth Management
12 Agreements (UGMAs) to coordinate the planning and management of land inside a UGB,
13 including urban service agreements involving special districts required under ORS
14 195.065 through 195.085. Such agreements shall be a necessary element of any land use
15 plan adopted for areas added to an urban growth boundary after the effective date of this
16 rule. UGMAs may be an intergovernmental agreement, or could be provisions in the
17 comprehensive plan, and shall, at a minimum:

18 (a) Establish procedures for coordination among the cities counties, and regional
19 governments where applicable, that have jurisdiction within the urban growth boundary;

20 (b) Specify the lead local government responsible for planning, zoning, and the
21 provision of urban transportation and public utilities to particular areas within the UGB;
22 and

23 (c) Establish procedures and responsibilities for planning and extending urban
24 services to urbanizable land pursuant to Section (7) of this rule.

25
26 (9) In absence of agreements specified in Section (8) of this rule, no local
27 government shall adopt any regulations or enforce any agreement requiring that urban
28 services be provided solely by a particular jurisdiction unless urban services to
29 urbanizable land are provided as a matter of right upon the approval of a development
30 application by the governing body of the jurisdiction.

31
32 **660-024-0090**

33 **UGB Adjustments**

34 (1) Local and regional governments may reconfigure the UGB at any time to
35 better achieve the purposes of Goal 14 and this division. Such reconfiguration may occur
36 through removal of land from the UGB, and may involve adding land to the UGB in
37 exchange for the land removed. If land is removed from the UGB, the requirements of
38 Sections (2) or (3) of this rule apply. If land is added to the UGB in exchange, all the
39 requirements of Goal 14 and this division apply, including the need and locational
40 requirements.

41
42 (2) Local and regional governments may amend a UGB to remove land under this
43 rule where it is demonstrated that (a) through (d) below apply:

1 (a) The land does not include non-resource land or land that would qualify as Goal
2 3 or 4 exception land, unless such land is not buildable land as defined by OAR 660-024-
3 0060(3);

4 (b) The removal of land does not result in a UGB that contains less than a 20-year
5 supply of buildable land for housing and employment needs unless other land is
6 simultaneously added to the UGB, or the development capacity of the remaining land
7 inside the UGB is increased, to meet land needs consistent with Section (4) of this rule;

8 (c) The removal of land does not preclude the efficient provision of urban services
9 to other buildable land that remains inside the UGB; and

10 (d) The applicable local government simultaneously adopts appropriate plan and
11 zone provisions for the land removed from the UGB consistent with all applicable
12 statewide goals.

13
14 (3) Notwithstanding Section (2) of this rule, local governments may remove a lot
15 or parcel from a UGB under the provisions of ORS 197.764.

ⁱ Safe harbor numbers have been shaded to indicate that these numbers are simply “placeholders”, they are not necessarily the numbers recommended by the department or the workgroup. The department is conducting research to determine recommended numbers, and will provide a recommendation at the conclusion of that research, prior to the December 8, 2004 LCDC hearing.

Proposed Administrative Rule Amendments
October 20, 2004

OAR 660, DIVISION 004
INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

1 **660-004-0000**

2 **Purpose**

3 (1) The purpose of this rule is to explain the three types of exceptions set forth in
4 Goal 2 “Land Use Planning, Part II, Exceptions”. Except as provided for in OAR Chapter
5 660, Division 14, “Application of the Statewide Planning Goals to the Incorporation of
6 New Cities” this Division interprets the exception process as it applies to statewide Goals
7 3 to 19.

8 (2) An exception is a decision to exclude certain land from the requirements of
9 one or more applicable statewide goals in accordance with the process specified in Goal
10 2, Part II, Exceptions. The documentation for an exception must be set forth in a local
11 government’s comprehensive plan. Such documentation must support a conclusion that
12 the standards for an exception have been met. The conclusion shall be based on findings
13 of fact supported by substantial evidence in the record of the local proceeding and by a
14 statement of reasons which explain why the proposed use not allowed by the applicable
15 goal should be provided for. The exceptions process is not to be used to indicate that a
16 jurisdiction disagrees with a goal.

17 (3) The intent of the exceptions process is to permit necessary flexibility in the
18 application of the Statewide Planning Goals. The procedural and substantive objectives
19 of the exceptions process are to:

20 (a) Assure that citizens and governmental units have an opportunity to participate
21 in resolving plan conflicts while the exception is being developed and reviewed; and

22 (b) Assure that findings of fact and a statement of reasons supported by
23 substantial evidence justify an exception to a statewide Goal.

24 (4) When taking an exception, a local government may rely on information and
25 documentation prepared by other groups or agencies for the purpose of the exception or
26 for other purposes, as substantial evidence to support its findings of fact. Such
27 information must be either included or properly incorporated by reference into the record
28 of the local exceptions proceeding. Information included by reference must be made
29 available to interested persons for their review prior to the last evidentiary hearing on the
30 exception.

31 Stat. Auth.: ORS 197

32 Stats. Implemented ORS 197.732

33 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-
34 1984, f. & ef. 2-10-84

35
36 **660-004-0005**

37 **Definitions**

38 For the purpose of this Division, the definitions in ORS 197.015 and the
39 Statewide Planning Goals shall apply. In addition the following definitions shall apply:

40 (1) An “Exception” is a comprehensive plan provision, including an amendment
41 to an acknowledged comprehensive plan, that:

1 (a) Is applicable to specific properties or situations and does not establish a
2 planning or zoning policy of general applicability;

3 (b) Does not comply with some or all goal requirements applicable to the subject
4 properties or situations; and

5 (c) Complies with the provisions of this Division.

6 (2) "Resource Land" is land subject to the statewide Goals listed in OAR 660-
7 004-0010(1)(a) through (g) except subsections (c) and (d).

8 (3) "Nonresource Land" is land not subject to the statewide Goals listed in
9 OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these
10 definitions is meant to imply that other goals, particularly Goal 5, do not apply to
11 nonresource land.

12 Stat. Auth.: ORS 197

13 Stats. Implemented ORS 197.015 & ORS 197.732

14 Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-
15 2004, f. & cert. ef. 5-7-04

16 17 **660-004-0010**

18 **Application of the Goal 2 Exception Process to Certain Goals**

19 (1) The exceptions process is not applicable to Statewide Goal 1 "Citizen
20 Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally
21 applicable to all or part of those statewide goals which prescribe or restrict certain uses of
22 resource land or limit the provision of certain public facilities and services. These
23 statewide goals include but are not limited to:

24 (a) Goal 3 "Agricultural Lands," however, an exception to Goal 3 "Agricultural
25 Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm
26 use (EFU) zone under ORS Chapter 215 and OAR 660 Division 033, "Agricultural
27 Lands" ;

28 (b) Goal 4 "Forest Lands" however, an exception to Goal 4 "Forest lands" is not
29 required for any of the forest or nonforest uses permitted in a forest or mixed farm/forest
30 zone under OAR Division 006, "Forest Lands";

31 (c) Goal 14 "Urbanization" except as provided for in ~~paragraphs (1)(c)(A) and~~
32 ~~(B) of this rule, and~~ OAR 660-014-0000 through 660-014-0040:

33 (A) An exception is not required to an applicable goal(s) for the establishment of
34 an urban growth boundary around or including portions of an incorporated city when
35 resource lands are included within that boundary. Adequate findings on the ~~seven~~ **eight**
36 Goal 14 factors, accompanied by an explanation of how they were considered and
37 applied during boundary establishment, provide the same information as required by the
38 exceptions process findings;

39 (B) When a local government changes an established urban growth boundary an
40 exception is not required unless the local government seeks an exception to any of
41 the requirements of Goal 14 or other applicable goal. it shall follow the procedures
42 and requirements set forth in Goal 2 "Land Use Planning", Part II, Exceptions. An
43 established urban growth boundary is one which has been acknowledged by the
44 Commission under ORS 197.251, ORS 197.625 or ORS 197.626. Revised findings

1 ~~and reasons in support of an amendment to an established urban growth boundary~~
2 ~~shall demonstrate compliance with the seven factors of Goal 14 and demonstrate~~
3 ~~that the following standards are met:~~

4 ~~(i) Reasons justify why the state policy embodied in the applicable goals~~
5 ~~should not apply (This factor can be satisfied by compliance with the seven factors~~
6 ~~of Goal 14.);~~

7 ~~(ii) Areas which do not require a new exception cannot reasonably~~
8 ~~accommodate the use;~~

9 ~~(iii) The long-term environmental, economic, social and energy consequences~~
10 ~~resulting from the use at the proposed site with measures designed to reduce~~
11 ~~adverse impacts are not significantly more adverse than would typically result from~~
12 ~~the same proposal being located in areas requiring a goal exception other than the~~
13 ~~proposed site; and~~

14 ~~(iv) The proposed uses are compatible with other adjacent uses or will be so~~
15 ~~rendered through measures designed to reduce adverse impacts.~~

16 (C) For land that is built upon at urban densities or irrevocably committed
17 to an urban level of development pursuant to OAR 660-014-0030, the fact that such
18 land is adjacent to an urban growth boundary is sufficient to satisfy an exception to
19 the requirements of Goal 14 in order to include the land in the urban growth
20 boundary, including and exception to the land need and location factors of that goal.

21 (d) Goal 11 “Public Facilities and Services”;

22 (e) Goal 16 “Estuarine Resources”;

23 (f) Goal 17 “Coastal Shorelands”; and

24 (g) Goal 18 “Beaches and Dune”.

25 (2) The exceptions process is generally not applicable to those statewide goals
26 which establish planning procedures and standards which do not prescribe or restrict
27 certain uses of resource land or limit the provision of certain public facilities and services
28 because these goals contain general planning guidance or their own procedures for
29 resolving conflicts between competing uses. However, exceptions to these goals,
30 although not required, are possible and exceptions taken to these goals will be reviewed
31 when submitted by a local jurisdiction. These statewide goals are:

32 (a) Goal 5 “Natural Resources”;

33 (b) Goal 6 “Air, Water, and Land Resources Quality”;

34 (c) Goal 7 “Natural Disasters and Hazards”;

35 (d) Goal 8 “Recreational Needs”;

36 (e) Goal 9 “Economy of the State”;

37 (f) Goal 10 “Housing” except as provided for in OAR 660-008-0035,
38 “Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to
39 ORS 197.303(3);

40 (g) Goal 12 “Transportation” except as provided for by OAR 660-012-0070,
41 “Exceptions for Transportation Improvements on Rural Land”;

42 (h) Goal 13 “Energy Conservation”;

43 (i) Goal 15 “Willamette Greenway” except as provided for in OAR 660-004-
44 0022(6); and

1 (j) Goal 19 “Ocean Resources”.

2 (3) An exception to one goal or goal requirement does not assure compliance with
3 any other applicable goals or goal requirements for the proposed uses at the exception
4 site. Therefore, an exception to exclude certain lands from the requirements of one or
5 more statewide goals or goal requirements does not exempt a local government from the
6 requirements of any other goal(s) for which an exception was not taken.

7 Stat. Auth.: ORS 183 & ORS 197

8 Stats. Implemented ORS 197.732

9 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-
10 1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef.
11 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef.
12 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04

NO CHANGES TO REMAINING RULES UNDER THIS DIVISION

Proposed Amended Administrative Rules
October 20, 2004

DIVISION 026
REGIONAL URBAN GROWTH BOUNDARIES

1 **660-026-0000**

2 **Purpose**

3 This Division describes how ORS 197.295 to ORS 197.302, ORS 197.732, Goals
4 2 and 14, and OAR Chapter 660, Division 004 apply to the administration of a regional
5 urban growth boundary (UGB). This Division is not intended to apply to the provisions
6 of ORS 197.298(3)(a) regarding “specific types of identified land need.”

7 Stat. Auth.: ORS 183, 195 & 197

8 Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

9 Hist.: LCDC 1-2003, f. & cert. ef. 1-17-03

10
11 **660-026-0010**

12 **Definitions**

13 For the purposes of this division, the definitions in ORS Chapter 197 and 268 and
14 the definitions in the statewide planning goals apply unless the context requires
15 otherwise:

16 (1) “Central City” means an area identified as such in the regional
17 framework plan of a district.

18 (2) “District” means a metropolitan service district organized under ORS Chapter
19 268 that administers a regional UGB (e.g., Metro).

20 (3) “Need” means the 20-year urban population growth, housing need,
21 employment opportunities, and livability needs, as specified under Goal 14, other
22 applicable statewide planning goal requirements and ORS 197.296.

23 (4) “Regional center” means an area identified as such in the regional framework
24 plan of a district.

25 (5) “Regional urban growth boundary” or “regional UGB” means an urban
26 growth boundary adopted by a metropolitan service district organized under ORS
27 Chapter 268.

28 (6) “Subregion” means a distinct geographic area within the regional UGB that
29 has been established by the district consistent with the requirements of OAR 660-026-
30 0030.

31 (7) “Subregional need” means that portion of the total amount of need for the
32 entire region that a district allocates to a particular subregion based on the application of
33 OAR 660-026-0020 through OAR 660-026-0040.

34 Stat. Auth.: ORS 183, 195 & 197

35 Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

36 Hist.: LCDC 1-2003, f. & cert. ef. 1-17-03

37

1 **660-026-0020**

2 **Determining Need for the Region**

3 A district reviewing the regional UGB as required under ORS 197.296(2) shall
4 determine the total amount of need for the entire region based on the requirements of
5 Goal 14, Factors 1 and 2, other applicable statewide planning goal requirements, and
6 ORS 197.296. If the district chooses to proceed under the provisions of OAR 660-026-
7 0030 through OAR 660-026-0040, below, need for the entire region shall be determined
8 prior to the determination of subregional need.

9 Stat. Auth.: ORS 183, 195 & 197

10 Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

11 Hist.: LCDC 1-2003, f. & cert. ef. 1-17-03

12
13 **660-026-0030**

14 **Allocation of Regional Need to Subregions**

15 A district may allocate regional needs determined under OAR 660-026-0020 to
16 subregions of the region provided:

17 (1) The sum of the needs allocated to the subregions shall be equal to the total
18 amount of need for the entire region determined under OAR 660-026-0020.

19 (2) The subregional allocation of need shall be based on provisions of the district's
20 regional framework plan that:

21 (a) Are adopted by the district, and acknowledged by the Commission, through
22 periodic review pursuant to ORS 197.628 to ORS 197.650; and

23 (b) Expressly authorize an allocation of need through a subregional approach that:

24 (A) Clearly indicates the location of the subregions, including maps and other
25 pertinent descriptions of fixed, non-overlapping boundaries for each subregion;

26 (B) Limits the number of subregions to no more than five, each containing one or
27 more regional centers and/or the central city, and a current population that is at least 15
28 percent of the population of the regional UGB; and

29 (C) Sets forth the objectives to be achieved by allocation of regional need to
30 subregions.

31 (3) If a district allocates regional need to subregions of the regional UGB,
32 findings to support the allocation shall:

33 (a) Explain how the allocation achieves the objectives of the district's regional
34 framework plan;

35 (b) Demonstrate that, as a result of the large size of the regional UGB, the
36 allocation of regional need to subregions will achieve a greater efficiency of land uses
37 within and on the fringe of the regional urban area than would be achieved without
38 subregional allocation;

39 (c) Explain how the subregional need of each subregion fits within the regional
40 context; and

41 (d) For each subregion, explain why the area is identified as a subregion; and
42 explain why the needs of the subregion should be viewed in isolation.

43 (4) The findings specified in Section (3) of this rule, and any associated
44 amendments to the regional UGB, shall be reviewed and acknowledged by the
45 Commission through periodic review.

1 (5) A district may allocate regional needs to more than one set of
2 subregions in order to achieve different provisions of the district's regional
3 framework plan so long as each set of subregions and each allocation of regional
4 needs to those subregions complies with sections (1) through (3) of this rule.

5 (6) As part of the periodic review for the regional UGB, the Commission may
6 require the district to evaluate and, if necessary, amend the provisions of the regional
7 framework plan required by section (2) of this rule.

8 Stat. Auth.: ORS 183, 195 & 197

9 Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

10 Hist.: LCDC 1-2003, f. & cert. ef. 1-17-03

11
12 **660-026-0040**

13 **Determining How to Meet Need**

14 (1) If a district allocates the regional need to subregions, as provided in OAR 660-
15 026-0030, the district shall first determine what portion (if any) of the need can be
16 reasonably accommodated on lands currently within the existing regional UGB that are
17 within or near each subregion, in the manner provided by ORS 197.296(6)(b), **Goal 14**
18 **and OAR 660-024-0070** ~~OAR 660-004-0010(1)(c)(B)(ii) and OAR 660-004-0020(2)(b).~~
19 The analysis under this section shall be deemed to comply with ORS 197.732 and Goal 2,
20 Part II.

21 (2) For that portion of the subregional need that cannot be reasonably
22 accommodated through application of section (1) of this rule, the district shall:

23 (a) First, examine alternative lands outside the existing regional UGB that are
24 near the subregion, and that are within the first priority under ORS 197.298(1);

25 (b) Second, to the extent that the lands examined under Subsection (2)(a) of this
26 rule are inadequate to accommodate the subregional need remaining after application of
27 Section (1), examine alternative lands outside the existing regional UGB that are near the
28 subregion, and that are within the second priority under ORS 197.298(1);

29 (c) Third, to the extent that the lands examined under subsections (2)(a) and (2)(b)
30 of this rule are inadequate to accommodate the subregional need remaining after
31 application of section (1), examine alternative lands outside the existing regional UGB
32 that are near the subregion, and that are within the third priority under ORS 197.298(1);
33 and

34 (d) Fourth, to the extent that the lands examined under subsections (2)(a) - (c) of
35 this rule are inadequate to accommodate the subregional need remaining after application
36 of section (1), examine the alternative lands outside the existing regional UGB that are
37 near the subregion, and that are within the fourth priority under ORS 197.298(1).

38 (3) If lands are identified for addition to the regional UGB under subsection (2)(d)
39 of this rule, they shall be prioritized for inclusion based on ORS 197.298(2).

40 (4) To determine whether lands of higher priority may be excluded from inclusion
41 in the regional UGB under section (2) of this rule, a district shall apply the reasons in
42 ORS 197.298(3)(b) or determine that the lands cannot reasonably accommodate the
43 subregional need in the manner provided by **Goal 14 and OAR 660-024-0070** ~~OAR 660-
44 004-0010(1)(c)(B)(ii) and OAR 660-004-0020(2)(b).~~ An analysis under this section shall
45 be deemed to comply with ORS 197.732 and Goal 2, Part II.

1 (5) If the amount of land near a subregion under a particular priority of ORS
2 197.298(1) is more than the amount of need allocated to that subregion, then the land
3 shall be prioritized for inclusion in the regional UGB based on Goal 14, Factors 3-7.

4 (6) A district shall ensure that land added to the regional UGB under this division
5 will be planned and zoned consistent with subregional need and with the limitations
6 required by OAR 660-004-0018(4).

7 Stat. Auth.: ORS 183, 195 & 197

8 Stats. Implemented: ORS 197.295-197.302, 197.626 & 268

9 Hist.: LCDC 1-2003, f. & cert. ef. 1-17-03

3.07.860 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 for that purpose by the Chief Operating Officer. An application for an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 must be filed between March 1 and March 31 of each calendar year in order to allow the Metro Council to consider the application concurrently with other such applications. Upon receipt of an application, the Council President shall set the matter for a public hearing before the Metro Council and shall notify MPAC, the Department of Land Conservation and Development and those persons who request notification of requests for exceptions.
- B. The Metro Council shall hold a public hearing to determine whether the exception meets the following criteria:
1. Except as provided in paragraph (2) of this subsection, the Council may grant an exception if it finds:
 - a. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
 - b. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
 - c. the exception will not reduce the ability of another city or county to comply with the requirement; and
 - d. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.
 2. The Council may grant an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 if it finds:
 - a. the city or county has completed the analysis of capacity for dwelling units and jobs required by subsections 3.07.150A, B and C;
 - b. it is not possible to achieve the targets due to topographic or other physical constraints, an

existing development pattern that precludes achievement of the 2040 Growth Concept, or protection of environmentally sensitive land; and

- c. this exception and other exceptions to the targets will not render the targets unachievable region-wide.
- C. The Council 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 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the Council grants the exception. The Council shall incorporate the terms and conditions into its order on the exception.
- D. The Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation 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. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)

3.07.870 Enforcement of Functional Plan

- A. The Metro Council may initiate enforcement proceedings under this section if a city or county has failed to meet a deadline in an extension granted pursuant to Section 3.07.850 or if it has good cause to believe that a city or county is engaging in a pattern or a practice of decision-making that is inconsistent with the functional plan or local ordinances adopted by the city or county to implement the plan, or with the terms or conditions in an extension. The Council may consider whether to initiate enforcement proceedings upon the request of the Chief Operating Officer 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 of this section.
- B. If the Metro Council concludes that there is good cause pursuant to subsection A of this section, the Council President shall set the matter for a public hearing before the Council within 90 days of its conclusion. The Chief Operating Officer 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, the Department of