

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

PROPOSED NEW AND AMENDED RULES

November 16, 2008 DRAFT

DIVISION 24

URBAN GROWTH BOUNDARIES

1 **660-024-0000**

2 **Purpose and Applicability**

3 (1) The rules in this division clarify procedures and requirements of Goal 14 regarding local
4 government adoption or amendment of an urban growth boundary (UGB).

5 (2) The rules in this division interpret Goal 14 as amended by Land Conservation and
6 Development Commission (LCDC) on or after April 28, 2005, and are not applicable to plan
7 amendments or land use decisions governed by previous versions of Goal 14 still in effect.

8 (3) The rules in this division are effective April 5, 2007, except as follows:

9 (a) A local government may choose to apply this division prior to April 5, 2007;

10 (b) A local government may choose to not apply this division to a plan amendment concerning
11 the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local
12 government initiated the evaluation or amendment of the UGB prior to April 5, 2007;

13 (c) For purposes of this rule, "initiated" means that the local government either:

14 (A) Issued the public notice specified in OAR 660-018-0020 for the proposed plan amendment
15 concerning the evaluation or amendment of the UGB; or

16 (B) Received LCDC approval of a periodic review work program that includes a work task to
17 evaluate the UGB land supply or amend the UGB;

18 (d) A local government choice whether to apply this division must include the entire division and
19 may not differ with respect to individual rules in the division.

20

21 **660-024-0010**

22 **Definitions**

23 In this division, the definitions in the statewide goals and the following definitions apply:

- 1 (1) "Attached housing" means housing where each unit shares a common wall, ceiling or
2 floor with at least one other unit. Attached housing" includes, but is not limited to
3 apartments, condominiums, and common-wall dwellings or rowhouses where each dwelling
4 unit occupies a separate lot.
- 5 (2) "Buildable Land" means residentially designated land within the urban growth
6 boundary as defined in OAR 660-008-0005 (2).
- 7 (3) "Detached Single Family Housing" means a housing unit that is free standing and
8 separate from other housing units.
- 9 (4) "Housing Needs Projection" refers to a local determination, justified in the plan, as to
10 the housing types and densities that will be:
- 11 (a) Commensurate with the financial capabilities of present and future area residents of all
12 income levels during the planning period;
- 13 (b) Consistent with ORS 197.295 to 197.314 and 197.475 to 197.490, OAR 660-008-0010
14 through 660-007-0049, and with OAR 660-007-0010 through 660-007-0037 and any other
15 adopted regional housing standards; and
- 16 (c) Consistent with Goal 14 requirements for the efficient provision of public facilities and
17 services and efficiency of land use.
- 18 (5) "Detached Single Family Housing" means a housing unit that is free standing and
19 separate from other housing units, including mobile homes and manufactured dwellings
20 under ORS 197.475 through 197.492.
- 21 (6) "EOA" means an economic opportunities analysis carried out under OAR 660-009-
22 0015.
- 23 (37) "Local government" means a city or county, or a metropolitan service district described in
24 ORS 197.015(14).
- 25 (8) "Metro boundary" means the boundary of a metropolitan service district described in
26 ORS 197.015(14).
- 27 (9) "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable
28 land, after excluding present and future rights-of-way, restricted hazard areas, public open
29 spaces and restricted resource protection areas.
- 30 (410) "Safe harbor" means an optional course of action that a local government may use to
31 satisfy a requirement of Goal 14. Use of a safe harbor prescribed in this division will satisfy the
32 requirement for which it is prescribed. A safe harbor is not the only way or necessarily the
33 preferred way to comply with a requirement and it is not intended to interpret the requirement for
34 any purpose other than applying a safe harbor within this division.

1 (~~§11~~) "UGB" means "urban growth boundary."

2 (~~612~~) "Urban area" means the land within a UGB.

3

4 **660-024-0020**

5 **Adoption or Amendment of a UGB**

6 (1) All statewide goals and related administrative rules are applicable when establishing or
7 amending a UGB, except as follows:

8 (a) The exceptions process in Goal 2 and OAR 660, division 4, is not applicable unless a local
9 government chooses to take an exception to a particular goal requirement, for example, as
10 provided in OAR 660-004-0010(1);

11 (b) Goals 3 and 4 are not applicable;

12 (c) Goal 5 and related rules under OAR 660, division 23, apply only in areas added to the UGB,
13 except as required under OAR 660-023-0070 and 660-023-0250;

14 (d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied
15 to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by
16 retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim
17 zoning that does not allow development that would generate more vehicle trips than development
18 allowed by the zoning assigned prior to inclusion in the boundary;

19 (e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette
20 River Greenway Boundary;

21 (f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal
22 shorelands boundary;

23 (g) Goal 19 is not applicable to a UGB amendment.

24 (2) The UGB and amendments to the UGB must be shown on the city and county plan and zone
25 maps at a scale sufficient to determine which particular lots or parcels are included in the UGB.
26 Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to
27 determine the precise UGB location.

28

1 **660-024-0030**

2 **Population Forecasts**

3 (1) Counties must adopt and maintain a coordinated 20-year population forecast for the county
4 and for each urban area within the county consistent with statutory requirements for such
5 forecasts under ORS 195.025 and 195.036. Cities must adopt a 20-year population forecast for
6 the urban area consistent with the coordinated county forecast, except that a metropolitan service
7 district must adopt and maintain a 20-year population forecast for the area within its jurisdiction.
8 In adopting the coordinated forecast, local governments must follow applicable procedures and
9 requirements in ORS 197.610 to 197.650 and must provide notice to all other local governments
10 in the county. The adopted forecast must be included in the comprehensive plan or in a document
11 referenced by the plan.

12 (2) The forecast must be developed using commonly accepted practices and standards for
13 population forecasting used by professional practitioners in the field of demography or
14 economics, and must be based on current, reliable and objective sources and verifiable factual
15 information, such as the most recent long-range forecast for the county published by the Oregon
16 Office of Economic Analysis (OEA). The forecast must take into account documented long-term
17 demographic trends as well as recent events that have a reasonable likelihood of changing
18 historical trends. The population forecast is an estimate which, although based on the best
19 available information and methodology, should not be held to an unreasonably high level of
20 precision. **For a population forecast used as a basis for a UGB amendment or an urban**
21 **reserve decision submitted to LCDC at periodic review or in the manner of periodic review**
22 **under ORS 197.626, the director or Commission may determine that a population forecast**
23 **complies with this rule if the director or Commission determines that:**

24 **(a) any failure to meet a particular requirement of this rule is technical or minor in nature,**
25 **and**

26 **(b) correcting the error would be unlikely to affect the amount of land necessary to satisfy**
27 **the local government's housing or employment need.**

28 (3) As a safe harbor, if a coordinated population forecast was adopted by a county within the
29 previous 10 years but does not provide a 20-year forecast for an urban area at the time a city
30 initiates an evaluation or amendment of the UGB, a city and county may adopt an updated
31 forecast for the urban area consistent with this section. The updated forecast is deemed to comply
32 with applicable goals and laws regarding population forecasts for purposes of the current UGB
33 evaluation or amendment provided the forecast:

34 (a) Is adopted by the city and county in accordance with the notice, procedures and requirements
35 described in section (1) of this rule; and

36 (b) Extends the current urban area forecast to a 20-year period commencing on the date
37 determined under OAR 660-024-0040(2) by using the same growth trend for the urban area
38 assumed in the county's current adopted forecast.

1 (4) As a safe harbor, a city and county may adopt a 20-year forecast for an urban area consistent
2 with this section. The forecast is deemed to comply with applicable goals and laws regarding
3 population forecasts for purposes of the current UGB evaluation or amendment provided the
4 forecast:

5 (a) Is adopted by the city and county in accordance with the notice, procedures and requirements
6 described in section (1) of this rule;

7 (b) Is based on OEA's population forecast for the county for a 20-year period commencing on the
8 date determined under OAR 660-024-0040(2); and

9 (c) Is developed by assuming that the urban area's share of the forecasted county population
10 determined in subsection (b) of this rule will be the same as the urban area's current share of
11 county population based on the most recent certified population estimates from Portland State
12 University and the most recent data for the urban area published by the U.S. Census Bureau.

13 (5) A city may propose a revised 20-year forecast for its urban area by following the
14 requirements described in ORS 195.034.

15

16 **660-024-0040**

17 **Land Need**

18 (1) The UGB must be based on the adopted 20-year population forecast for the urban area
19 described in OAR 660-024-0030, and must provide for needed housing, employment and other
20 urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-
21 year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-
22 year need determinations are estimates which, although based on the best available information
23 and methodologies, should not be held to an unreasonably high level of precision.

24 (2) If the UGB analysis or amendment is conducted as part of a periodic review work program,
25 the 20-year planning period must commence on the date initially scheduled for completion of the
26 appropriate work task. If the UGB analysis or amendment is conducted as a post-
27 acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period
28 must commence either:

29 (a) On the date initially scheduled for final adoption of the amendment specified by the local
30 government in the initial notice of the amendment required by OAR 660-018-0020; or

31 (b) If more recent than the date determined in subsection (a), at the beginning of the 20-year
32 period specified in the coordinated population forecast for the urban area adopted by the city and
33 county pursuant to OAR 660-024-0030, unless ORS 197.296 requires a different date for local
34 governments subject to that statute.

1 (3) A local government may review and amend the UGB in consideration of one category of land
2 need (for example, housing need) without a simultaneous review and amendment in
3 consideration of other categories of land need (for example, employment need).

4 (4) The determination of 20-year residential land needs for an urban area must be consistent with
5 the adopted 20-year coordinated population forecast for the urban area, and with the
6 requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and
7 applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

8 (5) Except for a metropolitan service district described in ORS 197.015(14), the determination of
9 20-year employment land need for an urban area must comply with applicable requirements of
10 Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term
11 supply of land for employment uses consistent with OAR 660-009-0025. Employment land need
12 may be based on an estimate of job growth over the planning period; local government must
13 provide a reasonable justification for the job growth estimate but Goal 14 does not require that
14 job growth estimates necessarily be proportional to population growth.

15 **(6) Cities and counties may jointly conduct a coordinated regional EOA for more than one**
16 **city in the county or for a defined region within one or more counties, in conformance with**
17 **Goal 9, OAR 660, division 9, and applicable provisions of ORS 195.025. A defined region**
18 **may include unincorporated areas of a county. When a county adopts a coordinated**
19 **regional EOA, the EOA may be used for the purpose of addressing employment land need**
20 **within one or more individual UGBs if the EOA has been approved by the Commission or**
21 **the department under ORS 197.626 and OAR 660-024-0080.**

22 (67) The determination of 20-year land needs for transportation and public facilities for an urban
23 area must comply with applicable requirements of Goals 11 and 12, rules in OAR 660, divisions
24 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of
25 school facility needs must also comply with ORS 195.110 and 197.296 for local governments
26 specified in those statutes.

27 (78) The following safe harbors may be applied [~~in determining~~] **by a local government to**
28 **determine its** housing needs under this division **and Goal 14, and as applicable, OAR 660,**
29 **divisions 7 and 8, Goal 10, and ORS 197.295 through 197.314 and 197.475 to 197.490.**

30 (a) [~~L~~]**A** local government[s] may estimate persons per household for the 20-year planning
31 period using the persons per household for the urban area indicated in the most current data for
32 the urban area published by the U.S. Census Bureau.

33 (b) If a local government does not regulate government-assisted housing differently than other
34 housing types, it is not required to estimate the need for government-assisted housing as a
35 separate housing type.

36 (c) If a local government allows manufactured homes on individual lots as a permitted use in all
37 residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary
38 to provide an estimate of the need for manufactured dwellings on individual lots.

1 (d) If a local government allows manufactured dwelling parks required by ORS 197.475 to
2 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a
3 separate estimate of the need for manufactured dwelling parks is not required.

4 **(e) A local government outside of the Metro boundary may estimate residential land need**
5 **by assuming buildable residential land in the urban area, for the 20-year planning period,**
6 **will develop at the average densities described in the applicable provisions in paragraphs**
7 **(A) through (D) of this subsection:**

8 **(A) Four units per net buildable acre for a local government with a 20-year urban**
9 **area population forecast of 2,500 people or fewer, determined in accordance with OAR**
10 **660-024-0030, provided the local government also plans and zones its buildable residential**
11 **land supply to allow an average overall density of at least six units per net buildable acre,**
12 **consistent with ORS 197.307(3)(b), and adopts minimum density requirements for such**
13 **lands that ensure that their minimum average overall density in the urban area is three**
14 **units per net buildable residential acre;**

15 **(B) Six units per net buildable acre for a local government with a 20-year urban**
16 **area population forecast of at least 2,500 but fewer than 10,000, determined in accordance**
17 **with OAR 660-024-0030, provided the local government also plans and zones its buildable**
18 **residential land supply to allow an average overall density of at least eight units per net**
19 **buildable acre, consistent with ORS 197.307(3)(b), and adopts minimum density**
20 **requirements for such lands that ensure that their minimum average overall density in the**
21 **urban area is four units per net buildable residential acre;**

22 **(C) Seven units per net buildable acre for a local government with a 20-year urban**
23 **area population forecast of at least 10,000 but fewer than 25,000, determined in accordance**
24 **with OAR 660-024-0030, provided the local government also plans and zones its buildable**
25 **residential land to allow an average overall density of at least nine units per net buildable**
26 **residential acre, consistent with ORS 197.307(3)(b), and adopts minimum density**
27 **requirements such lands that ensure that their minimum average overall density in the**
28 **urban area is five units per net buildable residential acre;**

29 **(D) Eight units per net buildable acre for a local government with a 20-year urban**
30 **area population forecast of at least 25,000 but fewer than 100,000, determined in**
31 **accordance with OAR 660-024-0030, provided the local government also plans and zones**
32 **its buildable residential land to allow at least an average overall density of ten units per net**
33 **buildable residential acre, consistent with ORS 197.307(3)(b), and adopts minimum density**
34 **requirements such lands that ensures that their minimum average overall density in the**
35 **urban area is six units per net buildable residential acre.**

36
37 **(f) As an alternative to the safe harbor in subsection (e) of this section, a local government**
38 **outside of the Metro boundary may estimate its residential land need by assuming that the**
39 **average overall density of buildable residential land in the urban area for the 20-year**
40 **planning period will increase by 25 percent over the average overall density of residential**
41 **land in the urban area for developed residential land at the time the local government**
42 **initiated the evaluation or amendment of the UGB. If a local government uses this safe**
43 **harbor, it must also plan and zone its buildable residential land, consistent with ORS**
44 **197.307(3)(b), to allow the applicable average overall densities or higher and to ensure the**

1 minimum densities, specified in the applicable sections (8)(e)(A) through (8)(e)(D) of this
2 rule.

3
4 (g) A local government analyzing land that is outside of the Metro boundary that uses the
5 housing density safe harbor in either subsection (e) or (f) of this section must¹ also estimate
6 housing mix using the percentage of attached housing described in the applicable
7 paragraph (A) through (D) of this section. These percentages designate the mix of attached
8 housing as a percentage of the total estimated housing need for both attached housing and
9 detached single family housing over the 20-year planning period. The housing mix safe
10 harbor described in this subsection may not be used unless the local government also uses
11 one of the “density” safe harbors in subsection (e) or (f) of this section.² Under this safe
12 harbor, the percentage of attached housing must be estimated as:

13 (A) 30 percent for a local government with a 20-year urban area population forecast
14 of 2,500 people or fewer, determined in accordance with OAR 660-024-0030;

15 (B) 35 percent for a local government with a 20-year urban area population
16 forecast of at least 2,500 but fewer than 10,000, determined in accordance with OAR 660-
17 024-0030;

18 (C) 40 percent for a local government with a 20-year urban area population
19 forecast of at least 10,000 but fewer than 25,000, determined in accordance with OAR 660-
20 024-0030;

21 (D) 50 percent for a local government with a 20-year urban area population forecast
22 of at least 25,000 but fewer than 100,000, determined in accordance with OAR 660-024-
23 0030.

24
25 (h) As an alternative to the safe harbor in subsection (g) of this section, a local government
26 outside the Metro Boundary that uses the housing density safe harbor in either subsection
27 (e) or (f) of this section must³ estimate housing mix as described in paragraphs (A) through
28 (E) of this subsection:

29 (A) determine the existing housing the percentages of both attached housing and
30 single family detached housing on developed land in the urban area at the time the local
31 government initiated the evaluation or amendment of the UGB;

32 (B) Increase the percentage of attached housing estimated in paragraph (A) of this
33 subsection by 15%.⁴ and decrease the percentage of detached single family housing by
34 15%.;

35 (C) Use the housing mix determined in paragraph (B) of this subsection in order to
36 estimating the mix of housing needs for the 20-year planning period;

¹ This portion of the rule and similar wording shaded in this section (footnotes 2, 3, and 5) requires that the housing “density” and “mix” safe harbors be linked. The workgroup did not reach agreement as to whether these safe harbors should be linked. This version shows these safe harbors linked. If LCDC decides to unlink the safe harbors, the shaded wording would be amended or eliminated to allow these two types of safe harbors to be used independently.

² See footnote 1.

³ See footnote 1.

⁴ The workgroup did not agree on the methodology for determining this 15% increase. Some members advocate that the 15% represent an increase in the number of attached housing units in the urban area at the time the local government initiates its UGB evaluation. The department and other member of the workgroup advocate that the 15% should represent an increase in the overall percentage of attached housing units in the estimated 20-year housing need. These methodologies will produce significantly different results in the amount of attached housing allowed.

1 **(D) Plan and zone buildable residential land, consistent with ORS 197.307(3)(b), to**
2 **allow the housing mix determined in paragraph (C) of this subsection; and**

3 **(E) The housing mix safe harbor described in this subsection may not be used unless**
4 **the local government also uses one of the “density” safe harbors in subsection (e) or (f) of**
5 **this section.**⁵

6 (89) The following safe harbors may be applied by a local government to determine its
7 employment needs for purposes of a UGB amendment under this rule, Goal 9, OAR 660,
8 division 9, Goal 14 and, if applicable, ORS 197.296.

9 (a) A local government may estimate that the current number of jobs in the urban area will grow
10 during the 20-year planning period at a rate equal to either:

11 (A) The county or regional job growth rate provided in the most recent forecast published
12 by the Oregon Employment Department; or

13 (B) The population growth rate for the urban area in the adopted 20-year coordinated
14 population forecast specified in OAR 660-024-0030.

15 (b) A local government with a population of 10,000 or less may assume that retail and service
16 commercial land needs will grow in direct proportion to the forecasted urban area population
17 growth over the 20-year planning period. This safe harbor may not be used to determine
18 employment land needs for sectors other than retail and service commercial.

19 **(c) Each local government that participates in a coordinated regional EOA acknowledged**
20 **by the Commission in accordance with subsection (6) of this rule may rely on the allocation**
21 **of employment needs specified in the regional EOA as its determination of 20-year**
22 **employment land needs in order to comply with Goals 9 and 14 and rules implementing**
23 **those goals, provided:**

24 **(A) The county submits the regional EOA for review under ORS 197.626 in the**
25 **manner described under OAR 660-024-0080 and the regional EOA is acknowledged;**

26 **(B) The coordinated regional EOA allocates the total regional employment forecast**
27 **and employment land need among the participating urban areas in a mutually agreed upon**
28 **manner and**

29 **(C) The coordinated regional EOA requires that, within three years after the**
30 **acknowledgement of the EOA as specified in section (6) of this rule, all cities included in the**
31 **EOA adopt the employment land needs in of the EOA that are applicable to their urban**
32 **area. A city’s adopted coordinated regional EOA is an element of an urban growth**
33 **boundary amendment subject to review under ORS 197.626 in the manner described under**
34 **OAR 660-024-0080.**

35 (910) As a safe harbor during periodic review or other legislative review of the UGB, a local
36 government may estimate that the 20-year land needs for streets and roads, parks and school
37 facilities will together require an additional amount of land equal to 25 percent of the net
38 buildable acres determined for residential land needs under section (4) of this rule. [For purposes
39 of this rule, a "Net Buildable Acre" consists of 43,560 square feet of residentially designated

⁵ See footnote 1.

1 ~~buildable land, after excluding present and future rights-of-way, restricted hazard areas, public~~
2 ~~open spaces and restricted resource protection areas.]~~

3

4 **660-024-0050**

5 **Land Inventory and Response to Deficiency**

6 (1) When evaluating or amending a UGB, a local government must inventory land inside the
7 UGB to determine whether there is adequate development capacity to accommodate 20-year
8 needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must
9 include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045
10 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to
11 that statute. For employment land, the inventory must include suitable vacant and developed land
12 designated for industrial or other employment use, and must be conducted in accordance with
13 OAR 660-009-0015(3).

14 (2) As safe harbors, a local government, except a city with a population over 25,000 or a
15 metropolitan service district described in ORS 197.015(14), may use the following assumptions
16 in inventorying buildable lands to accommodate housing needs:

17 (a) The infill potential of developed residential lots or parcels of one-half acre or more may be
18 determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and
19 assuming that the remainder is buildable land;

20 (b) Existing lots of less than one-half acre that are currently occupied by a residence may be
21 assumed to be fully developed.

22 (3) As safe harbors when inventorying land to accommodate industrial and other employment
23 needs, a local government may assume that a lot or parcel is vacant if it is:

24 (a) Equal to or larger than one-half acre, if the lot or parcel does not contain a permanent
25 building; or

26 (b) Equal to or larger than five acres, if less than one-half acre of the lot or parcel is occupied by
27 a permanent building.

28 (4) If the inventory demonstrates that the development capacity of land inside the UGB is
29 inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040,
30 the local government must amend the plan to satisfy the need deficiency, either by increasing the
31 development capacity of land already inside the city or by expanding the UGB, or both, and in
32 accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local
33 government must demonstrate that the estimated needs cannot reasonably be accommodated on
34 land already inside the UGB. Changes to the UGB must be determined by evaluating alternative
35 boundary locations consistent with OAR 660-024-0060.

1 (5) When land is added to the UGB, the local government must assign appropriate urban plan
2 designations to the added land, consistent with the need determination. The local government
3 must also apply appropriate zoning to the added land consistent with the plan designation, or
4 may maintain the land as urbanizable land either by retaining the zoning that was assigned prior
5 to inclusion in the boundary or by applying other interim zoning that maintains the land's
6 potential for planned urban development until the land is rezoned for the planned urban uses. The
7 requirements of ORS 197.296 regarding planning and zoning also apply when local governments
8 specified in that statute add land to the UGB.

9 **(6) For purposes of section (4) of this rule, in evaluating a proposed amendment of a UGB,**
10 **the director or the Commission may determine that a difference between the estimated 20-**
11 **year needs determined under OAR 660-024-0040 and the amount of land and development**
12 **capacity added to the UGB is minor and is insignificant, and as a result, may determine**
13 **that the proposed amendment complies with section (4) of this rule and with Goal 14, and**
14 **with applicable provisions of Goals 9 or 10 and rules implementing those goals.**

15

16 **660-024-0060**

17 **Boundary Location Alternatives Analysis**

18 (1) When considering a UGB amendment, a local government must determine which land to add
19 by evaluating alternative boundary locations. This determination must be consistent with the
20 priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as
21 follows:

22 (a) Beginning with the highest priority of land available, a local government must determine
23 which land in that priority is suitable to accommodate the need deficiency determined under 660-
24 024-0050.

25 (b) If the amount of suitable land in the first priority category exceeds the amount necessary to
26 satisfy the need deficiency, a local government must apply the location factors of Goal 14 to
27 choose which land in that priority to include in the UGB.

28 (c) If the amount of suitable land in the first priority category is not adequate to satisfy the
29 identified need deficiency, a local government must determine which land in the next priority is
30 suitable to accommodate the remaining need, and proceed using the same method specified in
31 subsections (a) and (b) of this section until the land need is accommodated.

32 (d) Notwithstanding subsection (a) through (c) of this section, a local government may consider
33 land of lower priority as specified in ORS 197.298(3).

34 (e) For purposes of this rule, the determination of suitable land to accommodate land needs must
35 include consideration of any suitability characteristics specified under section (5) of this rule, as
36 well as other provisions of law applicable in determining whether land is buildable or suitable.

- 1 (2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during
2 periodic review or other legislative review of the UGB, a local government may approve an
3 application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount
4 of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-
5 0050(4), provided the amendment complies with all other applicable requirements.
- 6 (3) The boundary location factors of Goal 14 are not independent criteria. When the factors are
7 applied to compare alternative boundary locations and to determine the UGB location, a local
8 government must show that all the factors were considered and balanced.
- 9 (4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the
10 UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the
11 vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.
- 12 (5) If a local government has specified characteristics such as parcel size, topography, or
13 proximity that are necessary for land to be suitable for an identified need, the local government
14 may limit its consideration to land that has the specified characteristics when it conducts the
15 boundary location alternatives analysis and applies ORS 197.298.
- 16 (6) The adopted findings for UGB adoption or amendment must describe or map all of the
17 alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves
18 more than one parcel or area within a particular priority category in ORS 197.298 for which
19 circumstances are the same, these parcels or areas may be considered and evaluated as a single
20 group.
- 21 (7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means
22 water, sanitary sewer, storm water management, and transportation facilities.
- 23 (8) The Goal 14 boundary location determination requires evaluation and comparison of the
24 relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to
25 the provision of public facilities and services needed to urbanize alternative boundary locations.
26 This evaluation and comparison must be conducted in coordination with service providers,
27 including the Oregon Department of Transportation with regard to impacts on the state
28 transportation system. "Coordination" includes timely notice to service providers and the
29 consideration of evaluation methodologies recommended by service providers. The evaluation
30 and comparison must include:
- 31 (a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that
32 serve nearby areas already inside the UGB;
- 33 (b) The capacity of existing public facilities and services to serve areas already inside the UGB
34 as well as areas proposed for addition to the UGB; and
- 35 (c) The need for new transportation facilities, such as highways and other roadways,
36 interchanges, arterials and collectors, additional travel lanes, other major improvements on
37 existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

1 **660-024-0070**

2 **UGB Adjustments**

3 (1) A local government may adjust the UGB at any time to better achieve the purposes of Goal
4 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or
5 by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of
6 this rule apply when removing land from the UGB. The requirements of Goal 14, this division,
7 and ORS 197.298 apply when land is added to the UGB, including land added in exchange for
8 land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB,
9 as specified in that statute. If a local government exchanges land inside the UGB for land outside
10 the UGB, the applicable local government must adopt appropriate rural zoning designations for
11 the land removed from the UGB before the local government applies ORS 197.298 and other
12 UGB location requirements necessary for adding land to the UGB.

13 (2) A local government may remove land from a UGB following the procedures and
14 requirements of ORS 197.764. Alternatively, a local government may remove land from the
15 UGB following the procedures and requirements of ORS 197.610 to 197.650, provided it
16 determines:

17 (a) The removal of land would not violate applicable statewide planning goals;

18 (b) The UGB would provide a 20-year supply of land for estimated needs after the land is
19 removed, taking into consideration land added to the UGB at the same time;

20 (c) Public facilities agreements adopted under ORS 195.020 do not provide for urban services on
21 the subject land unless the public facilities provider agrees to removal of the land from the UGB;

22 (d) Removal of the land does not preclude the efficient provision of urban services to any other
23 buildable land that remains inside the UGB; and

24 (e) The land removed from the UGB is planned and zoned for rural use consistent with all
25 applicable laws.

26 (3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange
27 of land may rely on its acknowledged population forecast and land needs analysis, rather than
28 adopt a new forecast and need analysis, provided the land added to the UGB is planned for the
29 same uses and at the same housing ~~[or employment]~~ **type and** density **or employment type** as
30 the land removed from the UGB, and provided:

31 (a) For residential land, the **type, density and** amount of buildable land added to the UGB is
32 substantially equivalent to the **type, density and** amount of buildable land removed; or

33 (b) For industrial or other employment land, the **type and** amount of suitable land added to the
34 UGB is substantially equivalent to the **type and** amount of suitable land removed;

1 |
2 (c) For land for other urban uses, such as public facilities, streets, roads, schools, parks,
3 and open spaces, the amount of buildable land added to the UGB is substantially equivalent
4 to the amount of buildable land removed; and

5 (d) For purposes of this section, “type” means either attached housing or single family
6 detached housing when referring to land planned and zoned for housing, and “type” means

7 (4) An exchange of land inside the UGB for land outside the UGB is considered to include
8 more than 50 acres for purposes of ORS 197.626 if the combined amount of land, including
9 land added and removed, totals more than 50 acres.⁶

10
11 660-024-0080

12 LCDC Review Required for UGB Amendments

13 (1) A city with a population of 2,500 or more within its urban growth boundary that
14 amends the urban growth boundary to include more than 50 acres shall submit the
15 amendment to the Land Conservation and Development Commission in the manner
16 provided for periodic review under ORS 197.628 to 197.650.

17 (2) For purposes of section (1) of this rule and ORS 197.626, if a local government adopts
18 an element of an urban growth boundary amendment as defined in section (3) of this rule
19 and if the city later amends the UGB in response to that element in a manner that adds less
20 than 50 acres to the UGB, neither the UGB amendment nor any preliminary element of the
21 UGB amendment that has not already been adopted shall be subject to LCDC review as
22 provided in this section (2).

23 (3) For purposes of this rule, the following definitions apply:

24 (b) “Amends the urban growth boundary” and “UGB amendment” mean: for a city with a
25 population of 2,500 or more within its urban growth boundary to adopt an amendment to a
26 UGB, or to adopt one or any combination of the following elements that are preliminary to
27 a UGB amendment, except for the coordinated population forecast described in OAR 660-
28 024-0030:

29 (A) A housing need analysis or employment need analysis as described in OAR 660-
30 024-0040, a “housing needs projection” described in OAR 660-008-0005(4), an Economic
31 Opportunities Analysis described in OAR 660-024-0040(5) and OAR 660-009-0015, a
32 coordinated regional EOA described in OAR 660-024-0040(6), an analysis demonstrating
33 need for other types of land inside a UGB under Goal 14 “Land Need” requirements, or

⁶ The workgroup did not discuss amendments to the land exchange rules. The department has proposed these changes to clarify ambiguity in section (3) of this rule that has been raised by local government and other interests after LCDC’s 2006 adoption of the rule.

1 any component of a need analysis described in this paragraph, including an analysis of
2 housing or employment density, mix or housing type, or employment density or type, or the
3 numbers of acres available or needed for such uses; a buildable land inventory for housing,
4 an analysis of employment land capacity per OAR 660-009-0015(3), or an inventory of land
5 for other urban uses, such as public facilities, streets and roads, schools, parks and open
6 spaces, including an analysis of infill or redevelopment potential for buildable land under
7 such an inventory per OAR 660-024-0050 and as defined in OAR 660-008-0005;

8 (B) An analysis of location factors under Goal 14 and OAR 660-024-0060, or a
9 determination of UGB expansion areas under those provisions.

10
11 (b) “The amendment” means an urban growth boundary amendment, including one or any
12 combination of the elements preliminary to a UGB amendment described in subsection (a),
13 paragraphs (A) and (B) of this rule.

14
15 (c) “More than 50 acres” means a UGB amendment or a combination of UGB amendments
16 within a calendar year that exceeds 50 acres, including exchanges under the requirements
17 of OAR 660-024-0070(4).

18
19 (4) At the option of a local government, each of paragraphs (A) and (B) of subsection (a) of
20 section (3) of this rule may be considered to constitute one element of a UGB amendment
21 that may be adopted by the local government and submitted individually to the
22 Commission in the manner provided for periodic review under ORS 197.628 to 197.650,
23 and may be reviewed as provided in ORS 197.633, provided the city’s population is 2,500
24 or more within its urban growth boundary and:

25
26 (a) For paragraph (3)(s)(A) of this rule, the plan amendment must include a determination
27 of the amount of land needed to be added to the UGB consistent with OAR 660-024-
28 0050(4), and all the elements listed in paragraph (A) necessary for such determination;

29
30 (b) For paragraph (3)(s)(B) of this rule, the plan amendment shall include the adoption of
31 the UGB expansion determined consistent with applicable goals, rules and statutes.

32
33 (5) If the director or Commission approves the preliminary element described in
34 paragraph (4)(a)(A) of this rule, the director or Commission may not re-evaluate or amend
35 its determination of compliance for that preliminary element at such time as the element
36 described in paragraph (3)(s)(B) of this rule is submitted to the Commission, provided the
37 element described in Section (3)(s)(B) of this rule is submitted to the Commission for
38 review within two years after acknowledgement of the preliminary element described in
39 paragraph (4)(a)(A) of this rule.⁷

40

⁷ As directed by the Commission, the workgroup discussed the issues that would be addressed by the proposed new draft rules under OAR 660-024-0080. At one point, the group conceptually agreed to the rules drafted here. However, in its final meeting, that agreement dissolved, with many workgroup members suggesting the Commission should not address this issue until pending litigation on this matter is decided by the courts. The proposed rules are included here for purposes of public comment and for reference as this issue is addressed in the department’s staff report to the Commission.