

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

DIVISION 24
URBAN GROWTH BOUNDARIES

*Proposed New rules and Rule Amendments in Response to ORS 197A
Second public draft November 13, 2015*

Note: No changes are proposed to existing rules at OAR 660-024-0010, 660-024-0020, 660-024-0045 and 660-024-0080

1 **660-024-0000**

2 **Purpose and Applicability**

3 (1) The rules in this division clarify procedures and requirements of Goal 14 regarding a local
4 government adoption or amendment of an urban growth boundary (UGB). **The rules in this**
5 **division do not apply to the simplified UGB process under OAR chapter 660, division 38.**

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

9 (3) The rules in this division adopted on October 5, 2006, are effective April 5, 2007. The rules
10 in this division amended on March 20, 2008, are effective April 18, 2008. The rules in this
11 division adopted March 13, 2009, and amendments to rules in this division adopted on that date,
12 are effective April 16, 2009, except as follows:

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

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

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

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

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

23 **(4) The rules in this division adopted December 3, 2015, are effective January 1, 2016.**

1 **660-024-0040**

2 **Land Need**

3 (1) The UGB must be based on the appropriate 20-year population forecast for the urban area as
4 determined under Rules in OAR 660, div 32, and must provide for needed housing, employment
5 and other urban uses such as public facilities, streets and roads, schools, parks and open space
6 over the 20-year planning period consistent with the land need requirements of Goal 14 and this
7 rule. The 20-year need determinations are estimates which, although based on the best available
8 information and methodologies, should not be held to an unreasonably high level of precision.
9 Local governments in Crook, Deschutes or Jefferson Counties may determine the need for
10 Regional Large-Lot Industrial Land by following the provisions of OAR 660-024-0045 for areas
11 subject to that rule.

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

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

19 (b) If more recent than the date determined in subsection (a), at the beginning of the 20-year
20 period specified in the appropriate coordinated population forecast for the urban area as
21 determined under Rules in OAR 660, div 32, unless ORS 197.296 requires a different date for
22 local governments subject to that statute.

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

26 (4) The determination of 20-year residential land needs for an urban area must be consistent with
27 the appropriate 20-year coordinated population forecast for the urban area determined under
28 Rules in OAR 660, div 32, and with the requirements for determining housing needs in Goals 10
29 and 14, OAR chapter 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314
30 and 197.475 to 197.490.

31 (5) Except for a metropolitan service district described in ORS 197.015(13), the determination of
32 20-year employment land need for an urban area must comply with applicable requirements of
33 Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a
34 short-term supply of land for employment uses consistent with 660-009-0025. Employment land
35 need may be based on an estimate of job growth over the planning period; local government
36 must provide a reasonable justification for the job growth estimate but Goal 14 does not require

1 that job growth estimates necessarily be proportional to population growth. Local governments
2 in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot
3 Industrial Land by following the provisions of 660-024-0045 for areas subject to that rule.

4 (6) Cities and counties may jointly conduct a coordinated regional EOA for more than one city in
5 the county or for a defined region within one or more counties, in conformance with Goal 9,
6 OAR chapter 660, division 9, and applicable provisions of ORS 195.025. A defined region may
7 include incorporated and unincorporated areas of one or more counties.

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

13 (8) The following safe harbors may be applied by a local government to determine housing need
14 under this division:

15 (a) A local government may estimate persons per household for the 20-year planning period
16 using the persons per household for the urban area indicated in the most current data for the
17 urban area published by the U.S. Census Bureau.

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

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

24 (d) If a local government allows manufactured dwelling parks required by ORS 197.475 to
25 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a
26 separate estimate of the need for manufactured dwelling parks is not required.

27 (e) A local government outside of the Metro boundary may estimate its housing vacancy rate for
28 the 20-year planning period using the vacancy rate in the most current data published by the U.S.
29 Census Bureau for that urban area that includes the local government.

30 (f) A local government outside of the Metro boundary may determine housing needs for purposes
31 of a UGB amendment using the combined Housing Density and Housing Mix safe harbors
32 described in this subsection and in Table 1, or in combination with the Alternative Density safe
33 harbor described under subsection (g) of this section and in Table 2. To meet the Housing
34 Density safe harbor in this subsection, the local government may Assume For UGB Analysis that
35 all buildable land in the urban area, including land added to the UGB, will develop at the

1 applicable average overall density specified in column B of Table 1. Buildable land in the UGB,
2 including land added to the UGB, must also be Zoned to Allow at least the average overall
3 maximum density specified as Zone To Allow in column B of Table 1. Finally, the local
4 government must adopt zoning that ensures buildable land in the urban area, including land
5 added to the UGB, cannot develop at an average overall density less than the applicable Required
6 Overall Minimum density specified in column B of Table 1. To meet the Housing Mix safe
7 harbor in this subsection, the local government must Zone to Allow the applicable percentages of
8 low, medium and high density residential specified in column C of Table 1.

9 (g) When using the safe harbor in subsection (f), a local government may choose to also use the
10 applicable Alternative Density safe harbors for Small Exception Parcels and High Value Farm
11 Land specified in Table 2. If a local government chooses to use the Alternative Density safe
12 harbors described in Table 2, it must

13 (A) Apply the applicable Small Exception Parcel density assumption and the High Value Farm
14 Land density assumption measures specified in the table to all buildable land that is within these
15 categories, and

16 (B) Apply the Housing Density and Mix safe harbors specified in subsection (f) of this section
17 and specified in Table 1 to all buildable land in the urban area that does not consist of Small
18 Exception Parcels or High Value Farm Land.

19 (h) As an alternative to the density safe harbors in subsection (f) and, if applicable, subsection
20 (g), of this section, a local government outside of the Metro boundary may assume that the
21 average overall density of buildable residential land in the urban area for the 20-year planning
22 period will increase by 25 percent over the average overall density of developed residential land
23 in the urban area at the time the local government initiated the evaluation or amendment of the
24 UGB. If a local government uses this Incremental Housing Density safe harbor, it must also meet
25 the applicable Zoned to Allow density and Required Overall Minimum density requirements in
26 Column B of Table 1 and, if applicable, Table 2, and must use the Housing Mix safe harbor in
27 Column C of Table 1.

28 (i) As an alternative to the Housing Mix safe harbor required in subsection (f) of this section and
29 in Column C of Table 1, a local government outside the Metro boundary that uses the housing
30 density safe harbor in either subsection (f), (g) or (h) of this section may estimate housing mix
31 using the Incremental Housing Mix safe harbor described in paragraphs (A) to (C) of this
32 subsection, as illustrated in Table 3:

33 (A) Determine the existing percentages of low density, medium density, and high density
34 housing on developed land (not “buildable land”) in the urban area at the time the local
35 government initiated the evaluation or amendment of the UGB;

1 (B) Increase the percentage of medium density housing estimated in paragraph (A) of this
2 subsection by 10 percent, increase the percentage of high density housing estimated in paragraph
3 (A) of this subsection by five percent, as illustrated in Table 3, and decrease the percentage of
4 low density single family housing by a proportionate amount so that the overall mix total is 100
5 percent, and

6 (C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B) of this
7 subsection.

8 (j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to terms
9 used in the tables:

10 (A) “Assume For UGB Analysis” means the local government may assume that the UGB will
11 develop over the 20-year planning period at the applicable overall density specified in Column B
12 of Tables 1 and 2.

13 (B) “Attached housing” means housing where each unit shares a common wall, ceiling or floor
14 with at least one other unit. “Attached housing” includes, but is not limited to, apartments,
15 condominiums, and common-wall dwellings or row houses where each dwelling unit occupies a
16 separate lot.

17 (C) “Average Overall Density” means the average density of all buildable land in the UGB,
18 including buildable land already inside the UGB and buildable land added to the UGB, including
19 land zoned for residential use that is presumed to be needed for schools, parks and other
20 institutional uses.

21 (D) “Coordinated 20-year Population Forecast” and “20-year Population Forecast” under
22 Column A of the Tables refers to the appropriate population forecast for the urban area
23 determined under rules in OAR 660, div 32.

24 (E) “Density” means the number of dwelling units per net buildable acre.

25 (F) “High Value Farm Land” has the same meaning as the term defined in ORS 195.300(10).

26 (G) “Required Overall Minimum” means a minimum allowed overall average density, or a
27 “density floor,” that must be ensured in the applicable residential zones with respect to the
28 overall supply of buildable land for that zone in the urban area for the 20-year planning period.

29 (H) “Single Family Detached Housing” means a housing unit that is free standing and separate
30 from other housing units, including mobile homes and manufactured dwellings under ORS
31 197.475 to 197.492.

32 (I) “Small Exception Parcel” means a residentially zoned parcel five acres or less with a house
33 on it, located on land that is outside a UGB prior to a proposed UGB expansion, subject to an
34 acknowledged exception to Goal 3 or 4 or both.

1 (J) “Zone To Allow” or “Zoned to Allow” means that the comprehensive plan and implementing
2 zoning shall allow the specified housing types and densities under clear and objective standards
3 and other requirements specified in ORS 197.307(3)(b) and (6).

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

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

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

11 (B) The population growth rate for the urban area in the appropriate 20-year coordinated
12 population forecast determined under Rules in OAR 660, div 32.

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

17 (10) As a safe harbor during periodic review or other legislative review of the UGB, a local
18 government may estimate that the 20-year land needs for streets and roads, parks and school
19 facilities will together require an additional amount of land equal to 25 percent of the net
20 buildable acres determined for residential land needs under section (4) of this rule, and in
21 conformance with the definition of “Net Buildable Acre” as defined in OAR 660-024-0010(6).

22 **660-024-0050**

23 **Land Inventory and Response to Deficiency**

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

32 (2) As safe harbors, a local government, except a city with a population over 25,000 or a
33 metropolitan service district described in ORS 197.015(13), may use the following assumptions
34 to inventory the capacity of buildable lands to accommodate housing needs:

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

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

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

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

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

12 (4) If the inventory demonstrates that the development capacity of land inside the UGB is
13 inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040,
14 the local government must amend the plan to satisfy the need deficiency, either by increasing the
15 development capacity of land already inside the city or by expanding the UGB, or both, and in
16 accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local
17 government must demonstrate that the estimated needs cannot reasonably be accommodated on
18 land already inside the UGB. If the local government determines there is a need to expand the
19 UGB, changes to the UGB must be determined by evaluating alternative boundary locations
20 consistent with Goal 14 and applicable rules at OAR 660-024-0060 or **OAR 660-024-0065 and**
21 **OAR 660-024-0067.**

22 (5) In evaluating an amendment of a UGB submitted under ORS 197.626, the director or the
23 Commission may determine that a difference between the estimated 20-year needs determined
24 under OAR 660-024-0040 and the amount of land and development capacity added to the UGB
25 by the submitted amendment is unlikely to significantly affect land supply or resource land
26 protection, and as a result, may determine that the proposed amendment complies with
27 section (4) of this rule.

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

1 (7) As a safe harbor regarding requirements concerning “efficiency,” a local government that
2 chooses to use the density and mix safe harbors in OAR 660-024-0040(8) is deemed to have met
3 the Goal 14 efficiency requirements under:

4 (a) Sections (1) and (4) of this rule regarding evaluation of the development capacity of
5 residential land inside the UGB to accommodate the estimated 20-year needs; and

6 (b) Goal 14 regarding a demonstration that residential needs cannot be reasonably
7 accommodated on residential land already inside the UGB, but not with respect to:

8 (A) A demonstration that residential needs cannot be reasonably accommodated by rezoning
9 non-residential land, and

10 (B) Compliance with Goal 14 Boundary Location factors.

11 **660-024-0060**

12 **Metro Boundary Location Alternatives Analysis**

13 (1) When considering a [~~UGB~~] **Metro boundary** amendment, [~~a local government~~] **Metro** must
14 determine which land to add by evaluating alternative boundary locations. **For Metro, t**[~~F~~]his
15 determination must be consistent with the priority of land specified in ORS 197.298 and the
16 boundary location factors of Goal 14, as follows:

17 (a) Beginning with the highest priority of land available, [~~a local government~~] **Metro** must
18 determine which land in that priority is suitable to accommodate the need deficiency determined
19 under OAR 660-024-0050.

20 (b) If the amount of suitable land in the first priority category exceeds the amount necessary to
21 satisfy the need deficiency, [~~a local government~~] **Metro** must apply the location factors of Goal
22 14 to choose which land in that priority to include in the **Metro boundary**[~~UGB~~].

23 (c) If the amount of suitable land in the first priority category is not adequate to satisfy the
24 identified need deficiency, [~~a local government~~] **Metro** must determine which land in the next
25 priority is suitable to accommodate the remaining need, and proceed using the same method
26 specified in subsections (a) and (b) of this section until the land need is accommodated.

27 (d) Notwithstanding subsection (a) to (c) of this section, [~~a local government~~] **Metro** may
28 consider land of lower priority as specified in ORS 197.298(3).

29 (e) For purposes of this **section** [~~rule~~], the determination of suitable land to accommodate land
30 needs must include consideration of any suitability characteristics specified under section (5) of
31 this rule, as well as other provisions of law applicable in determining whether land is buildable
32 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~~ **Metro boundary**, [~~a local government~~]
3 **Metro** may approve an application under ORS 197.610 to 197.625 for a **Metro boundary** [~~UGB~~]
4 amendment proposing to add an amount of land less than necessary to satisfy the land need
5 deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all
6 other applicable requirements.

7 (3) The boundary location factors of Goal 14 are not independent criteria. When the factors are
8 applied to compare alternative boundary locations and to determine the [~~UGB~~ **Metro Boundary**
9 location, **Metro** [~~a local government~~] must show that all the factors were considered and
10 balanced.

11 (4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the
12 UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the
13 vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.

14 (5) If [~~a local government~~] **Metro** has specified characteristics such as parcel size, topography,
15 or proximity that are necessary for land to be suitable for an identified need, [~~a local~~
16 ~~government~~] **Metro** may limit its consideration to land that has the specified characteristics when
17 it conducts the boundary location alternatives analysis and applies ORS 197.298.

18 (6) The adopted findings for [~~UGB~~] **a Metro boundary** adoption or amendment must describe or
19 map all of the alternative areas evaluated in the boundary location alternatives analysis. If the
20 analysis involves more than one parcel or area within a particular priority category in ORS
21 197.298 for which circumstances are the same, these parcels or areas may be considered and
22 evaluated as a single group.

23 (7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means
24 water, sanitary sewer, storm water management, and transportation facilities.

25 (8) The Goal 14 boundary location determination requires evaluation and comparison of the
26 relative costs, advantages and disadvantages of alternative [~~UGB~~] **Metro Boundary** expansion
27 areas with respect to the provision of public facilities and services needed to urbanize alternative
28 boundary locations. This evaluation and comparison must be conducted in coordination with
29 service providers, including the Oregon Department of Transportation with regard to impacts on
30 the state transportation system. "Coordination" includes timely notice to service providers and
31 the consideration of evaluation methodologies recommended by service providers. The
32 evaluation and comparison must include:

33 (a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that
34 serve nearby areas already inside the [~~UGB~~] **Metro Boundary**;

1 (b) The capacity of existing public facilities and services to serve areas already inside the UGB
2 as well as areas proposed for addition to the [*UGB*] **Metro Boundary**; and

3 (c) The need for new transportation facilities, such as highways and other roadways,
4 interchanges, arterials and collectors, additional travel lanes, other major improvements on
5 existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

6 **660-024-0065**

7 **Establishment of Study Area to Evaluate Land for Inclusion in the UGB**

8
9 **(1) When considering a UGB amendment to accommodate a need deficit identified in OAR**
10 **660-024-0050(4), a city outside of Metro must determine which land to add to the UGB by**
11 **evaluating alternative locations within a “study area” established pursuant to this rule. To**
12 **establish the study area, the city must first identify a “preliminary study area” which shall**
13 **not include land within a different UGB or within the corporate limits of a city that is**
14 **within a different UGB. The preliminary study area shall include:**

15 **(a) All lands in the city’s acknowledged urban reserve, if any;**

16 **(b) All lands that are within the following distance from the acknowledged UGB:**

17 **(A) For cities with a UGB population less than 10,000: one-half mile;**

18 **(B) For cities with a UGB population equal to or greater than 10,000: one mile;**

19 **(c) All exception areas that are within the following distance from the acknowledged**
20 **UGB provided they are contiguous to an exception area that includes land within the**
21 **distance specified in subsection (b):**

22 **(A) For cities with a UGB population less than 10,000: one mile;**

23 **(B) For cities with a UGB population equal to or greater than 10,000: one and one-**
24 **half miles;**

25 **(d) At the discretion of the city, the preliminary study area may include land that is**
26 **beyond the distance specified in subsections (b) and (c).**

27 **(2) A city that initiated the evaluation or amendment of its UGB prior to January 1, 2016,**
28 **may choose to identify a preliminary study area applying the standard in this section**
29 **rather than section (1). For such cities, the preliminary study area shall consist of:**

30 **(a) All land adjacent to the acknowledged UGB, including all land in the vicinity of the**
31 **UGB that has a reasonable potential to satisfy the identified need deficiency, and**

32 **(b) All land in the city’s acknowledged urban reserve established under OAR chapter**
33 **660, division 21, if applicable.**

1 **(3) When the primary purpose for expansion of the UGB is to accommodate a particular**
2 **industrial use that requires specific site characteristics, or to accommodate a public facility**
3 **that requires specific site characteristics, and the site characteristics may be found in only a**
4 **small number of locations, the preliminary study area may be limited to those locations**
5 **within the distance described in section (1) or (2), whichever is appropriate, that have or**
6 **could be improved to provide the required site characteristics. Site characteristics may**
7 **include but are not limited to size, topography and proximity. For purposes of this section:**

8 **(a) The definition of “site characteristics” in OAR 660-009-0005(11) applies for**
9 **purposes of identifying a particular industrial use.**

10 **(b) A “public facility” may include a facility necessary for public sewer, water, storm**
11 **water, transportation, parks, schools, or fire protection.**

12 **(4) The city may exclude land from the preliminary study area if it determines that:**

13 **(a) Based on the standards in section (7) of this rule, it is impracticable to provide**
14 **necessary public facilities or services to the land;**

15 **(b) The land is subject to significant development hazards, due to a risk of:**

16 **(A) Landslides: the land consists of a landslide deposit or scarp flank that is**
17 **described and mapped on the Statewide Landslide Information Database for**
18 **Oregon (SLIDO) Release 3.2 Geodatabase published by the Oregon Department of**
19 **Geology and Mineral Industries (DOGAMI) December 2014, provided that the**
20 **deposit or scarp flank in the data source is mapped at a scale of 1:40,000 or finer;**

21 **(B) Flooding, including inundation during storm surges: the land is within the**
22 **Floodway or Special Flood Hazard Area (SFHA) identified on the applicable Flood**
23 **Insurance Rate Map (FIRM);**

24 **(C) Tsunamis: the land is within a tsunami inundation zone established pursuant to**
25 **ORS 455.446;**

26 **(c) The land consists of a significant scenic, natural, cultural or recreational resource**
27 **described in this subsection:**

28 **(A) Lands that are designated on an acknowledged comprehensive plan prior to**
29 **initiation of the UGB amendment, or that are mapped on a published state or**
30 **federal inventory at a scale sufficient to determine its location for purposes of this**
31 **rule, as:**

32 **(i) Critical or essential habitat for a species listed by a state or federal agency**
33 **as threatened or endangered;**

1 (ii) Core habitat for Greater Sage Grouse; or

2 (iii) Big game winter range or migration corridors;

3 (B) Federal Wild and Scenic Rivers and State Scenic Waterways, including Related
4 Adjacent Lands described by ORS 390.805, as mapped by the applicable state or
5 federal agency responsible for the scenic program;

6 (C) Designated Natural Areas on the Oregon State Register of Natural Heritage
7 Resources;

8 (D) A wellhead protection area described under OAR 660-023-0140 and delineated
9 on a local comprehensive plan;

10 (E) Aquatic areas subject to Statewide Planning Goal 16 that are in a Natural or
11 Conservation management unit designated in an acknowledged comprehensive
12 plan;

13 (F) Lands subject to acknowledged comprehensive plan provisions that implement
14 Statewide Planning Goal 17, Coastal Shoreland, Use Requirement 1;

15 (G) Lands subject to acknowledged comprehensive plan provisions that implement
16 Statewide Planning Goal 18, Implementation Requirement 2; or

17 (d) The land is owned by the federal government and managed primarily for rural uses.

18 (5) After excluding land from the preliminary study area under section (4), the city must
19 adjust the area, if necessary, so that it includes an amount of land that is at least twice the
20 amount of land needed for the deficiency determined under OAR 660-024-0050(4) [ALT:
21 or, if applicable, twice the particular land need described in section (3)]. Such adjustment
22 shall be made by expanding the distance specified under the applicable section (1) or (2)
23 and applying section (4) to the expanded area.

24
25 (6) For purposes of evaluating the priority of land under OAR 660-024-0067, the “study
26 area” shall consist of all land that is included in the preliminary study area described in
27 section (2) of this rule after adjustments to the area based on sections (3) through (5).

28 (7) For purposes of subsection (4)(a), the city may consider it impracticable to provide
29 necessary public facilities or services to the following lands:

30 (a) Contiguous areas of at least five acres where 75 percent or more of the land has a
31 slope of 25 percent or greater. Slope shall be measured as the increase in elevation
32 divided by the horizontal distance at maximum ten-foot contour intervals;

1 **(b) Land that is isolated from existing service networks by physical, topographic, or**
2 **other impediments to service provision such that it is impracticable to provide**
3 **necessary facilities or services to the land within the planning period. The city’s**
4 **determination shall be based on an evaluation of:**

5 **(A) The likely amount of development that could occur on the land within the**
6 **planning period;**

7 **(B) The likely cost of facilities and services; and,**

8 **(C) Any substantial evidence collected by or presented to the city regarding how**
9 **similarly situated land in the region has, or has not, developed over time.**

10 **(c) As used in this section, “impediments to service provision” may include but are not**
11 **limited to:**

12 **(A) Major rivers or other water bodies that would require new bridge crossings to**
13 **serve planned urban development;**

14 **(B) Topographic features such as canyons or ridges with slopes exceeding 40 percent**
15 **and vertical relief of greater than 80 feet;**

16 **(C) Freeways, rail lines, or other restricted access corridors that would require new**
17 **grade separated crossings to serve planned urban development;**

18 **(D) Significant scenic, natural, cultural or recreational resources on an**
19 **acknowledged plan inventory and subject protection measures under the plan or**
20 **implementing regulations [ALT: or on a published state or federal inventory] that**
21 **would prohibit or substantially impede the placement or construction of necessary**
22 **public facilities and services.**

23 **(8) Land may not be excluded from the preliminary study area based on a finding of**
24 **impracticability that is primarily a result of existing development patterns. However, a city**
25 **may forecast development capacity as follows:**

26 **(a) Existing lots or parcels greater than one acre but less than two acres may be**
27 **assumed to have an aggregate development capacity of two units per acre.**

28 **(b) Existing vacant lots or parcels one acre or less may be assumed to have a**
29 **development capacity of one unit.**

30 **(9) Notwithstanding OAR 660-024-0050(4) and section (1) of this rule, except during**
31 **periodic review or other legislative review of the UGB, the city may approve an application**
32 **under ORS 197.610 to 197.625 for a UGB amendment to add an amount of land less than**

1 **necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4),**
2 **provided the amendment complies with all other applicable requirements.**

3 **(10) Lands included within a UGB pursuant to section (3) to provide for a particular**
4 **industrial use, or a particular public facility, must be planned and zoned for the intended**
5 **use and must remain planned and zoned for that use unless the city removes the land from**
6 **the UGB.**

7 **OAR 660-024-0067**

8 **Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities**

9 **(1) When considering a UGB amendment, a city outside of Metro must decide which**
10 **land to add to the UGB by evaluating all land in the study area determined under OAR**
11 **660-024-0065, as follows:**

12 **(a) Beginning with the highest priority category of land described in section (2) of this**
13 **rule, the city must apply section (5) to determine which land in that priority category is**
14 **suitable to satisfy the need deficiency determined under OAR 660-024-0050 and select as**
15 **much of the land as necessary to satisfy the need.**

16 **(b) If the amount of suitable land in the first priority category is not sufficient to satisfy**
17 **all the identified need deficiency, the city must apply section (5) to determine which land**
18 **in the next priority is suitable and select as much of the suitable land in that priority as**
19 **necessary to satisfy the need. The city must proceed in this manner until all the land**
20 **need is satisfied.**

21 **(c) If the amount of suitable land in a particular priority category in section (2)**
22 **exceeds the amount necessary to satisfy the need deficiency, the city must choose**
23 **which land in that priority to include in the UGB by applying the criteria in section**
24 **(6) of this rule.**

25 **(2) Priority of Land for inclusion in a UGB:**

26 **(a) First Priority – Urban reserve, exception land, and nonresource land. Lands in the**
27 **study area that meet the description in paragraphs (A) through (C) of this subsection**
28 **are of equal (first) priority:**

29 **(A) Land designated as an urban reserve under OAR chapter 660, division 21, in**
30 **an acknowledged comprehensive plan;**

31 **(B) Land that is subject to an acknowledged exception under ORS 197.732; and**

32 **(C) Land that is nonresource land.**

33 **(b) Second Priority – Marginal Land: land within the study area that is designated as**
34 **marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive**
35 **plan.**

1 **(c) Third Priority – Farm or forest land that is not predominantly high-value farm**
2 **land: land within the study area that is designated for agriculture or forest uses in the**
3 **acknowledged comprehensive plan and that is not predominantly high-value farmland**
4 **as defined in ORS 195.300, or that does not consist predominantly of prime or unique**
5 **soils as determined by the United States Department of Agriculture Natural Resources**
6 **Conservation Service. In selecting which lands to include to satisfy the need, the city**
7 **must use the predominant capability classification system or the predominant cubic site**
8 **class, as appropriate for the acknowledged comprehensive plan designation, to select**
9 **lower capability or cubic site class lands first.**

10 **(d) Fourth Priority – Agricultural land that is predominantly high-value farmland:**
11 **land within the study area that is designated as agricultural land in an acknowledged**
12 **comprehensive plan and is predominantly high-value farmland as defined in ORS**
13 **195.300(10). A city may not select land that is predominantly made up of prime or**
14 **unique farm soils, as defined by the United States Department of Agriculture Natural**
15 **Resources Conservation Service, unless there is an insufficient amount of other land to**
16 **satisfy its land need.**

17
18 **(3) Notwithstanding section (2)(c) or (d) of this rule, land that would otherwise be**
19 **excluded from a UGB may be included if:**

20 **(a) The land contains a small amount of third or fourth priority land that is not**
21 **important to the commercial agricultural enterprise in the area and the land must**
22 **be included to connect a nearby and significantly larger area of land of higher**
23 **priority for inclusion within the UGB; or**

24 **(b) The land contains a small amount of third or fourth priority land that is not**
25 **predominantly high value farmland or predominantly made up of prime or unique**
26 **farm soils and the land is completely surrounded by land of higher priority for**
27 **inclusion into the UGB.**

28 **(4) For purposes of subsections (2)(c) and (d) and section (3) of this rule:**

29 ***OPTION 1 (Recommended)***

30 ***(a) Areas of land (a) not larger than 200 acres, or (b) larger than 200 acres that are***
31 ***similarly situated and have similar soils, may be grouped together and studied as a single***
32 ***unit of land; provided, however, that soils of lower agricultural or forest capability may not***
33 ***be grouped with soils of higher capability in a manner inconsistent with the intent of***
34 ***section (2) of this rule which establishes that higher capability resource lands are the last***
35 ***priority for inclusion in a UGB..***

36 ***(b) Notwithstanding subsection (4)(a), where a city initiated the evaluation or amendment***
37 ***of its UGB prior to January 1, 2016, where the analysis involves more than one parcel or***
38 ***area within a particular priority category for which circumstances are reasonably similar,***
39 ***these parcels or areas may be considered and evaluated as a single group.***

1 (c) *When determining whether the land is predominantly high-value farmland, or*
2 *predominantly prime or unique, or when using the predominant capability classification*
3 *system or the predominant cubic site class of the subject land, “predominantly” means*
4 *more than 50 percent.*

5 **OPTION 2**

6 (a) When evaluating the agricultural or forest capability of land within a study area,
7 “land” means the land in a tract as defined at ORS 215.010.

8 (b) When determining whether the land is predominantly made up of prime or unique
9 farm soils “predominantly” means at least 50 percent of a tract as defined at ORS 215.010.

10 (5) With respect to subsection (1)(a) of this rule, a city must assume that vacant or partially
11 vacant land in a particular priority category is “suitable” to satisfy a need deficiency
12 identified in OAR 660-024-0050(4) or OAR 660-024-0065(3) unless it demonstrates that the
13 land cannot satisfy the specified need, or that its capacity to meet the need must be
14 reduced, based on one or more of the conditions described in subsections (a) through (e) of
15 this section:

16 (a) Existing parcelization, lot sizes or development patterns of the land make the land
17 unsuitable for an identified need, or require that the development capacity of the lands
18 be forecast at a lower level over the planning period than for unconstrained lands with
19 consideration of section (6) of this rule;

20 (b) The land would qualify for exclusion from the preliminary study area under the
21 factors in OAR 660-024-0065(4) but the city declined to exclude it pending more
22 detailed analysis under this (the priorities) rule. In evaluating this land, the city must
23 determine that those factors either require that the development capacity be forecast at
24 a lower level over the planning period than for unconstrained land, or that no
25 development capacity should be forecast with respect to the need;

26 (c) The land is committed to a public or semi-public use that is not reasonably likely to
27 be discontinued during the planning period, including but not limited to land within the
28 boundaries of a public use airport or within an area governed by compatibility requirements
29 for public use airports described in OAR 660-013-0080;

30 (d) With respect to needed industrial uses only, the land is over 10 percent slope, as
31 measured in the manner described in OAR 660-038-0160(5), and is an existing lot or
32 parcel that is smaller than 5 acres in size, or both.

33
34 (6) For lands added to the UGB to provide for residential uses:

1 (a) Existing lots or parcels one acre or less may be assumed to have a development
2 capacity of one dwelling unit per lot or parcel. Existing lots or parcels greater than one
3 acre but less than two acres shall be assumed to have an aggregate development
4 capacity of two dwelling units per acre.

5 (b) In any subsequent review of a UGB pursuant to this division, the city may use a
6 development assumption for land described subsection (a) of this section for a period of
7 14 years from the date the lands were added to the UGB.

8 (7) Pursuant to section (1)(c), if the amount of suitable land in a particular priority
9 category under section (2) exceeds the amount necessary to satisfy the need deficiency, the
10 city must choose which land in that priority to include in the UGB by first applying the
11 Boundary Location Factors of Goal 14 and then applying applicable criteria in the
12 acknowledged comprehensive plan and land use regulations acknowledged prior to
13 initiation of the UGB amendment. The city may not apply local comprehensive plan
14 criteria that contradict the requirements of the Boundary Location Factors of Goal 14. The
15 Boundary Location Factors are not independent criteria; when the factors are applied to
16 compare alternative boundary locations and to determine the UGB location the city must
17 show that it considered and balanced all the factors.

18 87) The city must apply the Boundary Location Factors in coordination with service
19 providers and state agencies, including the Oregon Department of Transportation with
20 respect to Factor 2 regarding impacts on the state transportation system, and the
21 Oregon Department of Fish and Wildlife with respect to Factor 3 regarding
22 environmental consequences. "Coordination" includes timely notice to agencies and
23 service providers and consideration of any recommended evaluation methodologies.

24 (9) In applying Goal 14 Boundary Location Factor 2 to evaluate alternative locations
25 under section (6), the city must compare relative costs, advantages and disadvantages of
26 alternative UGB expansion areas with respect to the provision of public facilities and
27 services needed to urbanize alternative boundary locations. For purposes of this
28 section, the term "public facilities and services" means water, sanitary sewer, storm
29 water management, and transportation facilities. The evaluation and comparison under
30 Boundary Location Factor 2 must consider:

31 (a) The impacts to existing water, sanitary sewer, storm water and transportation
32 facilities that serve nearby areas already inside the UGB;

33 (b) The capacity of existing public facilities and services to serve areas already
34 inside the UGB 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
37 improvements on existing roadways and, for urban areas of 25,000 or more, the
38 provision of public transit service.

1 **(10) The adopted findings for UGB adoption or amendment must describe or map all of**
2 **the alternative areas evaluated in the boundary location alternatives analysis.**

3 **660-024-0070**
4 **UGB Adjustments**

5 (1) A local government may adjust the UGB at any time to better achieve the purposes of
6 Goal 14 and this division. Such adjustment may occur by adding or removing land from the
7 UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of
8 section (2) of this rule apply when removing land from the UGB. The requirements of Goal
9 14 and this division~~[and ORS 197.298]~~ apply when land is added to the UGB, including land
10 added in exchange for land removed. The requirements of ORS 197.296 may also apply
11 when land is added to a UGB, as specified in that statute. If a local government exchanges
12 land inside the UGB for land outside the UGB, the applicable local government must adopt
13 appropriate rural zoning designations for the land removed from the UGB [~~before the local~~
14 ~~government applies 197.298 and other UGB location requirements necessary for adding~~
15 ~~land to the UGB~~] **prior to or at the time of adoption of the UGB amendment and must**
16 **apply applicable location and priority provisions of OAR 660-024-0060 through OAR**
17 **660-020-0067.**

18 (2) A local government may remove land from a UGB following the procedures and
19 requirements of ORS 197.764. Alternatively, a local government may remove land from the
20 UGB following the procedures and requirements of 197.610 to 197.650, provided it
21 determines:

22 (a) The removal of land would not violate applicable statewide planning goals **and rules**;

23 (b) The UGB would provide a 20-year supply of land for estimated needs after the land is
24 removed, **or would provide roughly the same supply of buildable land as prior to the**
25 **removal**, taking into consideration land added to the UGB at the same time;

26 (c) Public facilities agreements adopted under ORS 195.020 do not **intend to** provide for
27 urban services on the subject land unless the public facilities provider agrees to removal of
28 the land from the UGB **and concurrent modification of the agreement**;

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

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

33 (3) Notwithstanding sections (1) and (2) of this rule, a local government considering an
34 exchange of land may rely on [~~its acknowledged population forecast and~~] **the** land needs
35 analysis **that provided a basis for its current acknowledged plan**, rather than adopting **a**
36 new [~~forecast and~~] need analysis, provided:

1 (a) The amount of buildable land added to the UGB to meet:

2 **(A)** A specific type of residential need is substantially equivalent to the amount of buildable
3 residential land removed, or

4 **(B)** ~~The amount of [suitable and developed]~~ employment land added to the UGB to meet
5 an ~~[specific]~~ employment need is substantially equivalent to the amount of ~~[suitable and~~
6 ~~developed]~~ employment land removed, and

7 (b) The local government **must** ~~[applies]~~ **apply** comprehensive plan designations and, if
8 applicable, urban zoning to the land added to the UGB, such that the land added is
9 designated:

10 **(A)** For the same **residential** uses and at the same housing ~~[or employment]~~ density as the
11 land removed from the UGB, **or**

12 **(B) For the same employment uses as allowed on the land removed from the UGB, or**

13 **(C) If the land exchange is intended to provide for a particular industrial use that**
14 **requires particular site characteristics, only land zoned for commercial or industrial**
15 **use may be removed, and the land added must be zoned for the particular industrial**
16 **use and meet other applicable requirements of ORS 197A.320(6).**