

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, 660-024-0040, 660-024-0045 and 660-024-0080 (note: 660-024-0040 is shown for context only)

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
14 concerning the evaluation or amendment of a UGB, regardless of the date of that amendment,
15 if the local government initiated the evaluation or amendment of the UGB prior to April 5,
16 2007;

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

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

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

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

24 **(4) The rules in this division adopted on December 4, 2015, are effective January 1, 2016,**
25 **except that a local government may choose not to apply the rules adopted December 4,**
26 **2015 to a plan amendment concerning the evaluation or amendment of a UGB, regardless**

1 **of the date of that amendment, if the local government initiated the evaluation or**
2 **amendment of the UGB prior to January 1, 2016.**

3 **660-024-0040**

4 **Land Need**

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

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

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

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

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

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

33 (5) Except for a metropolitan service district described in ORS 197.015(13), the determination of
34 20-year employment land need for an urban area must comply with applicable requirements of
35 Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a

1 short-term supply of land for employment uses consistent with 660-009-0025. Employment land
2 need may be based on an estimate of job growth over the planning period; local government
3 must provide a reasonable justification for the job growth estimate but Goal 14 does not require
4 that job growth estimates necessarily be proportional to population growth. Local governments
5 in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot
6 Industrial Land by following the provisions of 660-024-0045 for areas subject to that rule.

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

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

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

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

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

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

27 (d) If a local government allows manufactured dwelling parks required by ORS 197.475 to
28 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a
29 separate estimate of the need for manufactured dwelling parks is not required.

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

33 (f) A local government outside of the Metro boundary may determine housing needs for
34 purposes of a UGB amendment using the combined Housing Density and Housing Mix safe
35 harbors described in this subsection and in Table 1, or in combination with the Alternative

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

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

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

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

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

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

- 1 (A) Determine the existing percentages of low density, medium density, and high density
2 housing on developed land (not “buildable land”) in the urban area at the time the local
3 government initiated the evaluation or amendment of the UGB;
- 4 (B) Increase the percentage of medium density housing estimated in paragraph (A) of this
5 subsection by 10 percent, increase the percentage of high density housing estimated in
6 paragraph (A) of this subsection by five percent, as illustrated in Table 3, and decrease the
7 percentage of low density single family housing by a proportionate amount so that the
8 overall mix total is 100 percent, and
- 9 (C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B)
10 of this subsection.
- 11 (j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to
12 terms used in the tables:
- 13 (A) “Assume For UGB Analysis” means the local government may assume that the UGB
14 will develop over the 20-year planning period at the applicable overall density specified in
15 Column B of Tables 1 and 2.
- 16 (B) “Attached housing” means housing where each unit shares a common wall, ceiling or
17 floor with at least one other unit. “Attached housing” includes, but is not limited to,
18 apartments, condominiums, and common-wall dwellings or row houses where each
19 dwelling unit occupies a separate lot.
- 20 (C) “Average Overall Density” means the average density of all buildable land in the UGB,
21 including buildable land already inside the UGB and buildable land added to the UGB,
22 including land zoned for residential use that is presumed to be needed for schools, parks
23 and other institutional uses.
- 24 (D) “Coordinated 20-year Population Forecast” and “20-year Population Forecast” under
25 Column A of the Tables refers to the appropriate population forecast for the urban area
26 determined under rules in OAR 660, div 32.
- 27 (E) “Density” means the number of dwelling units per net buildable acre.
- 28 (F) “High Value Farm Land” has the same meaning as the term defined in ORS
29 195.300(10).
- 30 (G) “Required Overall Minimum” means a minimum allowed overall average density, or a
31 “density floor,” that must be ensured in the applicable residential zones with respect to the
32 overall supply of buildable land for that zone in the urban area for the 20-year planning
33 period.

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

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

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

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

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

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

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

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

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

1 **660-024-0050**

2 **Land Inventory and Response to Deficiency**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **660-024-0060**

26 **Metro Boundary Location Alternatives Analysis**

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

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

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

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

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

12 (e) For purposes of this **section** [~~rule~~], the determination of suitable land to accommodate
13 land needs must include consideration of any suitability characteristics specified under
14 section (5) of this rule, as well as other provisions of law applicable in determining
15 whether land is buildable or suitable.

16 (2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during
17 periodic review or other legislative review of the **Metro** UGB, [~~a local government~~] **Metro** may
18 approve an application under ORS 197.610 to 197.625 for a **Metro** UGB amendment proposing
19 to add an amount of land less than necessary to satisfy the land need deficiency determined under
20 OAR 660-024-0050(4), provided the amendment complies with all other applicable
21 requirements.

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

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

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

32 (6) The adopted findings for **a Metro** UGB adoption or amendment must describe or map all of
33 the alternative areas evaluated in the boundary location alternatives analysis. If the analysis
34 involves more than one parcel or area within a particular priority category in ORS 197.298 for

1 which circumstances are the same, these parcels or areas may be considered and evaluated as a
2 single group.

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

5 (8) The Goal 14 boundary location determination requires evaluation and comparison of the
6 relative costs, advantages and disadvantages of alternative **Metro** UGB expansion areas with
7 respect to the provision of public facilities and services needed to urbanize alternative boundary
8 locations. This evaluation and comparison must be conducted in coordination with service
9 providers, including the Oregon Department of Transportation with regard to impacts on the state
10 transportation system. "Coordination" includes timely notice to service providers and the
11 consideration of evaluation methodologies recommended by service providers. The evaluation
12 and comparison must include:

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

15 (b) The capacity of existing public facilities and services to serve areas already inside the
16 UGB as well as areas proposed for addition to the **Metro** UGB; and

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

21 **660-024-0065**

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

23
24 **(1) When considering a UGB amendment to accommodate a need deficit identified in OAR**
25 **660-024-0050(4), a city outside of Metro must determine which land to add to the UGB by**
26 **evaluating alternative locations within a "study area" established pursuant to this rule. To**
27 **establish the study area, the city must first identify a "preliminary study area" which shall**
28 **not include land within a different UGB or within the corporate limits of a city that is**
29 **within a different UGB. The preliminary study area shall include:**

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

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

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

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

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

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

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

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

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

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

14 **(b) All land in the city's acknowledged urban reserve established under OAR chapter**
15 **660, division 21, if applicable.**

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

23 **(a) The definition of "site characteristics" in OAR 660-009-0005(11) applies for**
24 **purposes of identifying a particular industrial use.**

25 **(b) A "public facility" may include a facility necessary for public sewer, water, storm**
26 **water, transportation, parks, schools, or fire protection.**

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

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

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

31 **(A) Landslides: the land consists of a landslide deposit or scarp flank that is**
32 **described and mapped on the Statewide Landslide Information Database for**
33 **Oregon (SLIDO) Release 3.2 Geodatabase published by the Oregon Department of**

1 **Geology and Mineral Industries (DOGAMI) December 2014, provided that the**
2 **deposit or scarp flank in the data source is mapped at a scale of 1:40,000 or finer;**

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

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

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

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

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

16 **(ii) Core habitat for Greater Sage Grouse; or**

17 **(iii) Big game winter range or migration corridors;**

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

21 **(C) Designated Natural Areas on the Oregon State Register of Natural Heritage**
22 **Resources;**

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

25 **(E) Aquatic areas subject to Statewide Planning Goal 16 that are in a Natural or**
26 **Conservation management unit designated in an acknowledged comprehensive**
27 **plan;**

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

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

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

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

10
11 **(6) For purposes of evaluating the priority of land under OAR 660-024-0067, the “study**
12 **area” shall consist of all land that is included in the preliminary study area described in**
13 **section (1) or (2) of this rule after adjustments to the area based on sections (4) and (5).**

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

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

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

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

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

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

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

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

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

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

3 **(D) Significant scenic, natural, cultural or recreational resources on an**
4 **acknowledged plan inventory and subject to protection measures under the plan or**
5 **implementing regulations, or on a published state or federal inventory, that would**
6 **prohibit or substantially impede the placement or construction of necessary public**
7 **facilities and services.**

8 **(8) Land may not be excluded from the preliminary study area based on a finding of**
9 **impracticability that is primarily a result of existing development patterns. However, a city**
10 **may forecast development capacity as provided in OAR 660-024-0067(1)(c).**

11 **(9) Notwithstanding OAR 660-024-0050(4) and section (1) of this rule, except during**
12 **periodic review or other legislative review of the UGB, the city may approve an application**
13 **under ORS 197.610 to 197.625 for a UGB amendment to add an amount of land less than**
14 **necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4),**
15 **provided the amendment complies with all other applicable requirements.**

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

20 **OAR 660-024-0067**

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

22 **(1) A city considering a UGB amendment must decide which land to add to the UGB by**
23 **evaluating all land in the study area determined under OAR 660-024-0065, as follows**

24 **(a) Beginning with the highest priority category of land described in section (2), the**
25 **city must apply section (5) to determine which land in that priority category is**
26 **suitable to satisfy the need deficiency determined under OAR 660-024-0050 and**
27 **select for inclusion in the UGB as much of the land as necessary to satisfy the need.**

28 **(b) If the amount of suitable land in the first priority category is not sufficient to satisfy**
29 **all the identified need deficiency, the city must apply section (5) to determine which**
30 **land in the next priority is suitable and select for inclusion in the UGB as much of the**
31 **suitable land in that priority as necessary to satisfy the need. The city must proceed in**
32 **this manner until all the land need is satisfied.**

33 **(c) If the amount of suitable land in a particular priority category in section (2)**
34 **exceeds the amount necessary to satisfy the need deficiency, the city must choose**
35 **which land in that priority to include in the UGB by applying the criteria in section**
36 **(7) of this rule.**

37 **(d) In evaluating the sufficiency of land to satisfy a need under this section, the city**

1 may use the factors identified in sections (5) and (6) of this rule or 660-024-0065(8)
2 to reduce the forecast development capacity of the land to meet the need.

3 (e) With respect to particular uses identified as per OAR 660-024-0065(3), the land
4 does not have, and cannot be improved to provide, the particular site characteristics
5 required for the use.

6 (f) Land that is determined to not be suitable under section (5) of this rule to satisfy
7 the need deficiency determined under OAR 660-024-0050 is not required to be
8 selected for inclusion in the UGB unless its inclusion is necessary to serve other
9 higher priority lands.

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

11 (a) First Priority is Urban reserve, exception land, and nonresource land. Lands in the
12 study area that meet the description in paragraphs (A) through (C) of this subsection
13 are of equal (first) priority:

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

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

17 (C) Land that is nonresource land.

18 (b) Second Priority is Marginal Land: land within the study area that is designated as
19 marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive
20 plan.

21 (c) Third Priority is farm or forest land that is not predominantly high-value farm land:
22 land within the study area that is designated for agriculture or forest uses in the
23 acknowledged comprehensive plan and that is not predominantly high-value farmland
24 as defined in ORS 195.300, or that does not consist predominantly of prime or unique
25 soils as determined by the United States Department of Agriculture Natural Resources
26 Conservation Service. In selecting which lands to include to satisfy the need, the city
27 must use the predominant capability classification system or the predominant cubic site
28 class, as appropriate for the acknowledged comprehensive plan designation, to select
29 lower capability or cubic site class lands first.

30 (d) Fourth Priority is agricultural land that is predominantly high-value farmland: land
31 within the study area that is designated as agricultural land in an acknowledged
32 comprehensive plan and is predominantly high-value farmland as defined in ORS
33 195.300(10). A city may not select land that is predominantly made up of prime or
34 unique farm soils, as defined by the United States Department of Agriculture Natural
35 Resources Conservation Service, unless there is an insufficient amount of other land to
36 satisfy its land need. In selecting which lands to include to satisfy the need, the city must

1 **use the predominant capability classification system or the predominant cubic site class,**
2 **as appropriate for the acknowledged comprehensive plan designation, to select lower**
3 **capability or cubic site class lands first**

4
5 **(3) Notwithstanding section (2)(c) or (d) of this rule, land that would otherwise be**
6 **excluded from a UGB may be included if:**

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

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

15 **OPTION 1 (recommended)**

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

17 **(a) areas of land not larger than 200 acres may be grouped together and studied as a single**
18 **unit of land;**

19 **(b) Areas of land larger than 200 acres that are similarly situated and have similar soils**
20 **may be grouped together provided, however, that soils of lower agricultural or forest**
21 **capability may not be grouped with soils of higher capability in a manner inconsistent with**
22 **the intent of section (2) of this rule which establishes that higher capability resource lands**
23 **are the last priority for inclusion in a UGB;**

24 **(c) Notwithstanding subsection (4)(a), if a city initiated the evaluation or amendment of its**
25 **UGB prior to January 1, 2016, and if the analysis involves more than one parcel or area**
26 **within a particular priority category for which circumstances are reasonably similar, these**
27 **parcels or areas may be considered and evaluated as a single group;**

28 **(d) When determining whether the land is predominantly high-value farmland, or**
29 **predominantly prime or unique, or when using the predominant capability classification**
30 **system or the predominant cubic site class of the subject land, “predominantly” means**
31 **more than 50 percent.**

32 **OPTION 2**

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

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

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

3 **(5) With respect to section (1) of this rule, a city must assume that vacant or partially**
4 **vacant land in a particular priority category is “suitable” to satisfy a need deficiency**
5 **identified in OAR 660-024-0050(4) unless it demonstrates that the land cannot satisfy the**
6 **specified need based on one or more of the conditions described in subsections (a) through**
7 **(e) of this section:**

8 **(a) Existing parcelization, lot sizes or development patterns of rural residential land**
9 **make the land unsuitable for an identified employment need;**

10 **(b) The land would qualify for exclusion from the preliminary study area under the**
11 **factors in OAR 660-024-0065(4) but the city declined to exclude it pending more**
12 **detailed analysis.**

13 **(c) The land is, or would be upon inclusion in the UGB, subject to natural resources**
14 **protections under Statewide Planning Goals 5 such that that no development capacity**
15 **should be forecast with respect to the need.**

16 **(d) With respect to needed industrial uses only, the land is over 10 percent slope, or is**
17 **an existing lot or parcel that is smaller than 5 acres in size, or both. Slope shall be**
18 **measured as the increase in elevation divided by the horizontal distance at maximum**
19 **ten-foot contour intervals.**

20 **(e) The land does not have, and cannot be improved to provide, one or more of the**
21 **specific site characteristics for a particular industrial use or public facility use**
22 **described in OAR 660-024-0065(3).**

23 **(6) For lands added to the UGB to provide for residential uses:**

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

28 **(b) In any subsequent review of a UGB pursuant to this division, the city may use a**
29 **development assumption for land described subsection (a) of this section for a period of**
30 **14 years from the date the lands were added to the UGB.**

31 **(7) Pursuant to section (1)(c), if the amount of suitable land in a particular priority**
32 **category under section (2) exceeds the amount necessary to satisfy the need deficiency, the**
33 **city must choose which land in that priority to include in the UGB by first applying the**
34 **Boundary Location Factors of Goal 14 and then applying applicable criteria in the**
35 **acknowledged comprehensive plan and land use regulations acknowledged prior to**

1 **initiation of the UGB amendment. The city may not apply local comprehensive plan**
2 **criteria that contradict the requirements of the Boundary Location Factors of Goal 14. The**
3 **Boundary Location Factors are not independent criteria; when the factors are applied to**
4 **compare alternative boundary locations and to determine the UGB location the city must**
5 **show that it considered and balanced all the factors.**

6 **(8) The city must apply the Boundary Location Factors in coordination with service**
7 **providers and state agencies, including the Oregon Department of Transportation with**
8 **respect to Factor 2 regarding impacts on the state transportation system, and the**
9 **Oregon Department of Fish and Wildlife and the Department of State Lands with**
10 **respect to Factor 3 regarding environmental consequences. “Coordination” includes**
11 **timely notice to agencies and service providers and consideration of any recommended**
12 **evaluation methodologies.**

13 **(9) In applying Goal 14 Boundary Location Factor 2 to evaluate alternative locations**
14 **under section (6), the city must compare relative costs, advantages and disadvantages of**
15 **alternative UGB expansion areas with respect to the provision of public facilities and**
16 **services needed to urbanize alternative boundary locations. For purposes of this**
17 **section, the term “public facilities and services” means water, sanitary sewer, storm**
18 **water management, and transportation facilities. The evaluation and comparison under**
19 **Boundary Location Factor 2 must consider:**

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

22 **(b) The capacity of existing public facilities and services to serve areas already**
23 **inside the UGB as well as areas proposed for addition to the UGB; and**

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

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

30 **660-024-0070**
31 **UGB Adjustments**

32 (1) A local government may adjust the UGB at any time to better achieve the purposes of
33 Goal 14 and this division. Such adjustment may occur by adding or removing land from the
34 UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of
35 section (2) of this rule apply when removing land from the UGB. The requirements of Goal
36 14 and this division~~and ORS 197.298~~ apply when land is added to the UGB, including land
37 added in exchange for land removed. The requirements of ORS 197.296 may also apply
38 when land is added to a UGB, as specified in that statute. If a local government exchanges

1 land inside the UGB for land outside the UGB, the applicable local government must adopt
2 appropriate rural zoning designations for the land removed from the UGB [~~before the local~~
3 ~~government applies 197.298 and other UGB location requirements necessary for adding~~
4 ~~land to the UGB~~] **prior to or at the time of adoption of the UGB amendment and must**
5 **apply applicable location and priority provisions of OAR 660-024-0060 through OAR**
6 **660-020-0067.**

7 (2) A local government may remove land from a UGB following the procedures and
8 requirements of ORS 197.764. Alternatively, a local government may remove land from the
9 UGB following the procedures and requirements of 197.610 to 197.650, provided it
10 determines:

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

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

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

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

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

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

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

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

29 **(B) T**[~~he~~] the amount of [~~suitable and developed~~] employment land added to the UGB to
30 meet an [~~specific~~] employment need is substantially equivalent to the amount of
31 [~~suitable and developed~~] employment land removed, and

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

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

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

5 **(C) If the land exchange is intended to provide for a particular industrial use that**
6 **requires particular site characteristics, only land zoned for commercial or**
7 **industrial use may be removed, and the land added must be zoned for the**
8 **particular industrial use and meet other applicable requirements of ORS**
9 **197A.320(6).**