

Stat. Auth.: ORS 183, ORS 195 & ORS 197
 Stats. Implemented: ORS 195.145
 Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDC 5-1994, f. & cert. ef. 4-20-94;
 LCDD 2-1997(Temp), f. & cert. ef. 5-21-97; LCDD 3-1997, f. & cert. ef. 8-1-97;
 LCDD 4-1997, f. & cert. ef. 12-23-97; LCDD 4-2000, f. & cert. ef. 3-22-00

660-021-0090
Implementation Schedule

(1) Local governments listed in OAR 660-021-0080(3) shall complete urban reserve area planning under the following schedule:

(a) Adopt final urban reserve area boundaries, including all mapping, planning, and land use regulation requirements specified in OAR 660-021-0040 within 24 months from the effective date of this rule; and

(b) Adopt urban reserve area agreements meeting OAR 660-021-0050 within one year from adoption of urban reserve areas.

(2) The Director may grant an extension to time lines under subsections (1)(a) or (b) of this rule if the Director determines that the local government has provided proof of good cause for failing to complete urban reserve requirements on time.

Stat. Auth.: ORS 183 & ORS 197
 Stats. Implemented: ORS 197.145 & ORS 197.040
 Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92

660-021-0100
Interim Protection of Potential Reserve Areas

(1) The following interim protection measures apply to all land use decisions concerning exception areas and nonresource lands within two miles of the urban growth boundary of Medford, and to those areas designated as an urban reserve by Metro (for the Portland area urban growth boundary) on March 6, 1997:

(a) Amendments of comprehensive plans or land use regulations are prohibited if they would allow an increase in the density of residential development relative to existing acknowledged plan and land use regulation provisions;

(b) Amendments of comprehensive plans or land use regulations are prohibited if they would allow additional commercial or industrial uses relative to existing acknowledged plan and land use regulation provisions, except that mineral and aggregate sites inventoried in an acknowledged plan may be rezoned to authorize mining activities;

(c) No subdivision or partition shall be permitted within two miles of the urban growth boundary of Medford; and

(d) No subdivision or partition creating a lot or parcel of less than 20 acres shall be permitted within those areas designated as urban reserves by Metro on March 6, 1997.

(2) Any local government reviewing a proposed land use decision that includes a decision under (1)(a) - (d) of this rule shall notify the department in writing of the proposal at least ten days prior to the close of the record on the decision.

(3) The provisions of this section are effective until the earlier of the following:

(a) December 31, 2000;

(b) When the commission adopts a rule under Goal 14 limiting the circumstances in which land divisions are allowed on rural exception lands; or

(c) For the Portland area urban growth boundary, when Metro's urban reserve designations are acknowledged, and all affected local governments have adopted the measures required under OAR 660-021-0040 and 0050 and those measures are acknowledged.

Stat. Auth.: ORS 183, ORS 195 & ORS 197
 Stats. Implemented: ORS 195.145
 Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 4-1997, f. & cert. ef. 12-23-97; LCDD 4-2000, f. & cert. ef. 3-22-00

DIVISION 22

UNINCORPORATED COMMUNITIES

660-022-0000

Purpose

(1) The purpose of this division is to establish a statewide policy for the planning and zoning of unincorporated communities that recognizes the importance of communities in rural Oregon. It is intended to expedite the planning process for counties by reducing their need

to take exceptions to statewide planning goals when planning and zoning unincorporated communities.

(2) This division interprets Goals 11 and 14 concerning urban and rural development outside urban growth boundaries and applies only to unincorporated communities defined in OAR 660-022-0010.

(3) This division does not apply to areas approved as destination resorts under the destination resort statute, ORS 197.435 through 197.467.

Stat. Auth.: ORS 197.040 & ORS 197.245
 Stats. Implemented: ORS 197.040
 Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

660-022-0010

Definitions

For purposes of this division, the definitions contained in ORS 197.015 and the statewide planning goals (OAR chapter 660, division 15) apply. In addition, the following definitions apply:

(1) "Commercial Use" means the use of land primarily for the retail sale of products or services, including offices. It does not include factories, warehouses, freight terminals, or wholesale distribution centers.

(2) "Community Sewer System" means a sewage disposal system which has service connections to at least 15 permanent dwelling units, including manufactured homes, within the unincorporated community.

(3) "Community Water System" means a system that distributes potable water through pipes to at least 15 permanent dwelling units, including manufactured homes within the unincorporated community.

(4) "Industrial Use" means the use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.

(5) "Permanent residential dwellings" includes manufactured homes, but does not include dwellings primarily intended for a caretaker of an industrial use, commercial use, recreational vehicle park or campground.

(6) "Resort Community" is an unincorporated community that was established primarily for and continues to be used primarily for recreation or resort purposes: and

(a) Includes residential and commercial uses; and

(b) Provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations.

(7) "Rural Community" is an unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.

(8) "Rural Service Center" is an unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or to persons traveling through the area, but which also includes some permanent residential dwellings.

(9) "Urban Unincorporated Community" is an unincorporated community which has the following characteristics:

(a) Include at least 150 permanent residential dwellings units;

(b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;

(c) Includes areas served by a community sewer system; and

(d) Includes areas served by a community water system.

(10) "Unincorporated Community" means a settlement with all of the following characteristics:

(a) It is made up primarily of lands subject to an exception to Statewide Planning Goal 3, Goal 4 or both;

(b) It was either identified in a county's acknowledged comprehensive plan as a "rural community," "service center," "rural center," "resort community," or similar term before this division was adopted (October 28, 1994), or it is listed in the Department of Land Conservation and Development's January 30, 1997, "Survey of Oregon's Unincorporated Communities";

(c) It lies outside the urban growth boundary of any city;

(d) It is not incorporated as a city; and

(e) It met the definition of one of the four types of unincorporated communities in sections (6) through (9) of this rule, and included the uses described in those definitions, prior to the adoption of this division (October 28, 1994).

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94; LCDC 1-1997, f. & cert. ef. 2-27-97

660-022-0020

Designation of Community Areas

(1) Except as provided in OAR 660-022-0070, county comprehensive plans shall designate and identify unincorporated communities in accordance with the definitions in OAR 660-022-0010. Counties may amend these designations as circumstances change over time.

(2) Counties shall establish boundaries of unincorporated communities in order to distinguish lands within the community from exception areas, resource lands and other rural lands. The boundaries of unincorporated communities shall be shown on the county comprehensive plan map at a scale sufficient to determine accurately which properties are included.

(3) Only land meeting the following criteria may be included within an unincorporated community boundary:

(a) Land which has been acknowledged as a Goal 3 or 4 exception area and historically considered to be part of the community provided the land only includes existing, contiguous concentrations of:

(A) Commercial, industrial, or public uses; and/or

(B) Dwelling units and associated residential lots at a greater density than exception lands outside rural communities.

(b) Land planned and zoned for farm or forest use provided such land meets the criteria in section (4) of this rule.

(4) Community boundaries may include land that is designated for farm or forest use pursuant to Goals 3 and 4 if all the following criteria is met:

(a) The land is contiguous to Goal 3 or 4 exception lands included in the community boundary;

(b) The land was occupied on the date of this division (October 28, 1994) by one or more of the following uses considered to be part of the community: Church, cemetery, school, park, playground, community center, fire station, museum, golf course, or utility facility;

(c) Only the portion of the lot or parcel that is occupied by the use(s) in subsection (b) of this section is included within the boundary; and

(d) The land remains planned and zoned under Goals 3 or 4.

(5) Site specific unincorporated community boundaries that are shown on an acknowledged plan map on October 28, 1994, are deemed to comply with subsections (2) and (3) of this rule unless the boundary includes land designated for farm or forest use that does not meet the criteria in section (4) of this rule.

(6) Communities which meet the definitions in both OAR 660-022-0010(6) and (9) shall be classified and planned as either resort communities or urban unincorporated communities.

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94; LCDC 1-1997, f. & cert. ef. 2-27-97

660-022-0030

Planning and Zoning of Unincorporated Communities

(1) For rural communities, resort communities and urban unincorporated communities, counties shall adopt individual plan and zone designations reflecting the projected use for each property (e.g., residential, commercial, industrial, public) for all land in each community. Changes in plan or zone designation shall follow the requirements to the applicable post-acknowledgment provisions of ORS 197.610 through 197.625.

(2) County plans and land use regulations may authorize any residential use and density in unincorporated communities, subject to the requirements of this division.

(3) County plans and land use regulations may authorize only the following new industrial uses in unincorporated communities:

(a) Uses authorized under Goals 3 and 4;

(b) Expansion of a use existing on the date of this rule;

(c) Small-scale, low impact uses;

(d) Uses that require proximity to rural resource, as defined in OAR 660-004-0022(3)(a);

(e) New uses that will not exceed the capacity of water and sewer service available to the site on the effective date of this rule, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;

(f) New uses more intensive than those allowed under subsection (a) through (e) of this section, provided an analysis set forth in the comprehensive plan demonstrates, and land use regulations ensure:

(A) That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;

(B) That such uses would not rely upon a work force served by uses within urban growth boundaries; and

(C) That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries.

(4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:

(a) Uses authorized under Goals 3 and 4;

(b) Small-scale, low impact uses;

(c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

(5) County plans and land use regulations may authorize hotels and motels in unincorporated communities only if served by a community sewer system and only as provided in subsections (a) through (c) of this section:

(a) Any number of new motel and hotel units may be allowed in resort communities;

(b) New motels and hotels up to 35 units may be allowed in an urban unincorporated community, rural service center, or rural community if the unincorporated community is at least 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, regardless of its proximity to any other UBG;

(c) New motels and hotels up to 100 units may be allowed in any urban unincorporated community that is at least 10 mile from any urban growth boundary.

(6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do no adversely affect agricultural or forestry uses.

(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

(9) County plans and land use regulations for lands within unincorporated communities shall be consistent with acknowledged metropolitan regional goals and objectives, applicable regional functional plans and regional framework plan components of metropolitan service districts.

(10) For purposes of this section, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4,000 square feet of floor space.

(11) For purposes of this section, a small-scale, low impact industrial use is one which takes place in an urban unincorporated community in a building or buildings not exceeding 20,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 10,000 square feet of floor space.

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

660-022-0040

Urban Unincorporated Communities

(1) Counties with qualifying communities shall adopt plans and land use regulations for urban unincorporated communities (UUCs). All statewide planning goals applicable to cities shall also apply to UUCs, except for those goals provisions relating to urban growth boundaries and related requirements regarding the accommodation of long-term need for housing and employment growth.

(2) Counties may expand the boundaries of those UUCs with the following characteristics during regularly scheduled periodic review in order to include developable land to meet a demonstrated long-term need for housing and employment:

(a) The UUC is at least 20 road miles from an urban growth boundary with a population over 25,000; and

(b) The UUC is at least 10 road miles from an urban growth boundary with a population of 25,000 or less.

(3) To expand the boundary of a UUC, a county shall demonstrate a long-term need for housing and employment in the community. The county shall base its demonstration upon population growth estimates from a reputable forecast service (such as Portland State University). The county shall coordinate its estimates with those for other cities and communities in the county. The county shall consider:

(a) Plans to extend facilities and services to existing community land; and

(b) The infill potential of existing land in the community.

(4) If a county determines that it must expand the boundary of a UUC to accommodate a long-term need for housing and employment, it shall follow the criteria for amendment of an urban growth boundary in statewide planning Goal 14 and shall select land using the following priorities:

(a) First priority goes to that developable land nearest to the UUC which is identified in an acknowledged comprehensive plan as exception area or nonresource land;

(b) If land described in subsection (a) of this section is not adequate to accommodate the need demonstrated pursuant to section (3) of this rule, second priority goes to land designated in a comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use, with designated marginal land considered the lowest capability (highest priority for selection);

(c) Land described in subsection (4)(b) of this section may be included if land of higher priority is inadequate to accommodate the need projected according to section (3) of this rule for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land; or

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land use within the UUC requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

(5) Counties shall apply plans and land use regulations to ensure that land added to a UUC:

(a) Is used only to satisfy needs identified pursuant to section (3) of this rule; and

(b) Is provided with sewer and water services at the time of development; and

(c) Is planned and zoned according to the requirements of this division; and

(d) If designated for residential use, meets the requirements of statewide planning Goal 10 and ORS 197.314; and

(6) Counties shall not rely upon the use of land included within a UUC as the basis for determining that nearby land designated in compliance with goals relating to agriculture or forestry is committed to nonresource use as defined in OAR 660-004-0005(3).

(7) Counties shall include findings of fact and conclusions of law demonstrating compliance with the provisions of this rule in their comprehensive plans.

(8) For purposes of this rule, "developable land" shall have the meaning given that term in OAR 660-021-0010(5).

(9) For purposes of this rule, "long-term need" means needs for the UUC anticipated by the time of the county's next regularly scheduled periodic review.

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

660-022-0050

Community Public Facility Plans

(1) In coordination with special districts, counties shall adopt public facility plans meeting the requirements of OAR 660, division 11, and include them in the comprehensive plan for unincorporated communities over 2,500 in population. A community public facility plan addressing sewer and water is required if the unincorporated community is designated as an urban unincorporated community under OAR 660-022-0010 and 660-022-0020. For all communities, a sewer and water community public facility plan is required if:

(a) Existing sewer or water facilities are insufficient for current needs, or are projected to become insufficient due to physical conditions, financial circumstances or changing state or federal standards; or

(b) The plan for the unincorporated community provides for an amount, type or density of additional growth or infill that cannot be adequately served with individual water or sanitary systems or by existing community facilities and services; or

(c) The community relies on groundwater and is within a groundwater limited or groundwater critical area as identified by the Oregon Department of Water Resources; or

(d) Land in the community has been declared a health hazard, or has a history of failing septic systems or wells, or a community sewage or water system is projected to be needed by the next periodic review.

(2) A community public facility plan shall include inventories, projected needs, policies and regulations for the water and sewerage facilities which are existing or needed to serve the unincorporated community, including:

(a) An inventory of the condition and capacity of existing public facilities and services;

(b) An assessment of the level of facilities and services needed to adequately serve the planned buildout within the community area boundary; and

(c) Coordination agreements consistent with ORS chapter 195.

(3) If existing community facilities and services are not currently adequate to serve the development allowed in the plan and zoning ordinance, the community public facility plan shall contain either:

(a) Development restrictions to ensure development will not exceed the capacity of the land to absorb waste and provide potable water and will not exceed the capacity of public facilities; or

(b) A list of new facilities, and improvements for existing public facilities, necessary to adequately serve the planned buildout in the unincorporated community, including the projected costs of these improvements and an identification of the provider or providers of these improvements; and

(c) A discussion of the provider's funding mechanisms and the ability of these and possibly new mechanisms to fund the development of each community public facility project; and

(d) A requirement that development not occur until the necessary public facilities are available for that development.

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

660-022-0060

Coordination and Citizen Involvement

(1) Counties shall ensure that residents of unincorporated communities have adequate opportunities to participate in all phases of the planning process. Counties shall provide such opportunities in accordance with their acknowledged citizen involvement programs.

(2) When a county proposes to designate an unincorporated community or to amend plan provisions or land use regulations that apply to such a community, the county shall specify the following:

(a) How residents of the community and surrounding area will be informed about the proposal;

(b) How far in advance of the final decision residents of the community and the surrounding area will be informed about the proposal;

(c) Which citizen advisory committees will be notified of the proposal.

(3) The information on these three points shall be included in the appropriate plan amendment proposals or periodic review work task.

(4) When a county proposes to designate an urban unincorporated community, the county shall adopt a citizen involvement program for that community in accordance with the provisions of Goal 1, Citizen Involvement.

(5) Proposals to designate, plan, or zone unincorporated communities shall be coordinated with all special districts, metropolitan service districts, and cities likely to be affected by such actions. For any unincorporated community, such coordination shall include a minimum of 45-day mailed notice to all cities and special districts (including metropolitan service districts) located within the distance described in OAR 660-022-0040(2).

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

660-022-0070

Applicability

For each unincorporated community in the county, by January 1, 1998, or a date specified in a periodic review work program, all counties shall:

(1) Plan for unincorporated communities under the requirements of this division; or

(2) Demonstrate that all uses authorized by acknowledged comprehensive plans and land use regulations for unincorporated communities are rural, in compliance with statewide planning Goals 11 and 14; or

(3) Amend acknowledged comprehensive plans and land use regulations to limit uses to those which are rural in compliance with statewide planning Goals 11 and 14; or

(4) Adopt exceptions to statewide planning Goal 14, and Goal 11 if necessary, to allow urban uses on rural land.

Stat. Auth.: ORS 197.040 & ORS 197.245

Stats. Implemented: ORS 197.040

Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94

DIVISION 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0000

Purpose and Intent

This division establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources. This division explains how local governments apply Goal 5 when conducting periodic review and when amending acknowledged comprehensive plans and land use regulations.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040 & ORS 197.225 - ORS 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0010

Definitions

As used in this division, unless the context requires otherwise:

(1) "Conflicting use" is a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)). Local governments are not required to regard agricultural practices as conflicting uses.

(2) "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.

(3) "Impact area" is a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.

(4) "Inventory" is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites. (See resource list.)

(5) "PAPA" is a "post-acknowledgment plan amendment." The term encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions taken in accordance with ORS 197.628 through 197.650.

(6) "Program" or "program to achieve the goal" is a plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as part of the comprehensive plan and land use regulations (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

(7) "Protect," when applied to an individual resource site, means to limit or prohibit uses that conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-0180, and 660-023-0190). When applied to a resource category, "protect" means to develop a program consistent with this division.

(8) "Resource category" is any one of the cultural or natural resource groups listed in Goal 5.

(9) "Resource list" includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. A "plan inventory" adopted under OAR 660-016-0000(5)(c) shall be considered to be a resource list.

(10) "Resource site" or "site" is a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels.

(11) "Safe harbor" has the meaning given to it in OAR 660-023-0020(2).

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.040 & 197.225 - 197.245

Hist.: LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0020

Standard and Specific Rules and Safe Harbors

(1) The standard Goal 5 process, OAR 660-023-0030 through 660-023-0050, consists of procedures and requirements to guide local planning for all Goal 5 resource categories. This division also provides specific rules for each of the fifteen Goal 5 resource categories (see OAR 660-023-0090 through 660-023-0230). In some cases this division indicates that both the standard and the specific rules apply to Goal 5 decisions. In other cases, this division indicates that the specific rules supersede parts or all of the standard process rules (i.e., local governments must follow the specific rules rather than the standard Goal 5 process). In case of conflict, the resource-specific rules set forth in OAR 660-023-0090 through 660-023-0230 shall supersede the standard provisions in OAR 660-023-0030 through 660-023-0050.

(2) A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow safe harbor requirements rather than addressing certain requirements in the standard Goal 5 process. For example, a jurisdiction may choose to identify "significant" riparian corridors using the safe harbor criteria under OAR 660-023-0090(5) rather than follow the general requirements for determining "significance" in the standard Goal 5 process under OAR 660-023-0030(4). Similarly, a jurisdiction may adopt a wetlands ordinance that meets the