



Oregon

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July 9, 2015

TO: Land Conservation and Development Commission

FROM: Bob Rindy, Senior Policy Analyst

SUBJECT: **Agenda Item 9, July 23-24, 2015, LCDC Meeting**

UPDATE: URBAN GROWTH BOUNDARY RULEMAKING

I. AGENDA ITEM SUMMARY

Under this item, the Department of Land Conservation & Development (DLCD) will provide the Land Conservation and Development Commission (LCDC) with an informational briefing regarding progress with the ongoing effort by DLCD to develop rules establishing a new, simplified, process for cities to use to evaluate and, if necessary, amend their urban growth boundary (UGB). New LCDC rules to establish the streamlined process are required by 2013 legislation (House Bill 2254¹). The rules must be adopted by January 1, 2016.

DLCD has prepared a power point slide show in order to background LCDC at this meeting. The slide show is not attached to this report, but will be linked on DLCD website after the LCDC meeting.

For additional information about this report please contact Bob Rindy, DLCD, at 503 934-0008 or at bob.rindy@state.or.us. The DLCD website concerning this project is at <http://www.oregon.gov/LCD/Pages/UGB-Streamlining.aspx>.

II. BACKGROUND

House Bill (HB) 2254 ([Attachment A](#)) directs LCDC to develop and adopt a new, simplified, method for cities outside of Metro to use in evaluating and/or amending their urban growth boundary. The legislation will go into effect on January 1, 2016, and HB 2254 requires that implementing rules be adopted by LCDC by that date. Some minor amendments to statewide Goal 14 are also required; these amendments would only change the goal to allow a 14 year supply for the new process and to reference new statutes at ORS 197A. This may be

¹ HB 2254 (2013) has been codified at ORS 197A.300 to 197A.325. The requirements regarding UGB location, applicable to all cities outside of Metro whether using the new streamlined process or the existing UGB process, are codified at 197A.320 (see attachment D).

accomplished with only one LCDC hearing.²

Except for laws governing the location of a UGB amendment, the new method will not replace the existing UGB process (“the traditional process”) established by Goal 14 and which has been used throughout the history of the land use program, although amended at various times (the traditional process is described under LCDC rules at OAR 660, division 24). Rather, the rules must provide a new alternative streamlined process – a city may choose whether to use the new or the old process when they amend their UGB.

HB 2254 reaffirmed certain core policy outcomes intended by Goal 14 and the Oregon land use planning program: efficient cities that are desirable places to live and work and the conservation of farm and forest lands. It is understood that the new streamlined alternative may not work for all cities wishing to evaluate and change their UGB, but it is intended to work for most growing cities. The new method will not apply within the Metro area, in part to allow Metro’s unique urban and rural reserve process (enacted in 2007) to be fully implemented.

Developing these new UGB rules is the responsibility of DLCDC with the help of a Rules Advisory Committee (RAC) appointed by LCDC in September, 2013 ([Attachment B](#)). The RAC plans to have the rules drafted for an initial review by LCDC in the fall of 2015 and a second and final public hearing on the draft rules in December of 2015.

Attachment C to this report provides a diagram that summarizes the new process. The rules must provide simplified ways for growing cities to evaluate their need for additional land and development capacity in the UGB, using a fourteen year planning horizon based on population forecasts issued by Portland State University’s Population Research Center (the new PSU forecasting program was established by a companion bill, HB 2253, in the 2013 session). HB 2254 requires a streamlined UGB process for both small cities (those with less than 10,000 people) and large cities (those with 10,000 or more people).

These new methods must provide “factors” and “ranges” to allow cities to estimate how much future (14-year) residential and employment growth is needed and how much growth can be accommodated on land that is already within the existing UGB and land that might be added to the UGB. These factors and ranges must be established based on research about recent and projected growth of cities or regions.

LCDC will not be required to approve any UGBs under the new method – all appeals of UGB amendments will go to the Land Use Board of Appeals (LUBA) and the Oregon Court of Appeals. Furthermore, LUBA and the court’s standard of review of UGB amendments under the new method is limited to determining whether a city followed the factors in the rules and chose values consistent with the “ranges” in the new rules.

² While ten goal hearings are normally required, ORS 197.235(4) allows that “... when a legislative enactment ... is inconsistent with the adopted goals and guidelines or directs the commission to make a specific change to the adopted goals and guidelines, the commission may amend the goals and guidelines after only one public hearing, at a location determined by the commission ...”

It is important to note that one element of the new statutory requirements, concerning where a city decides to grow, is applicable to all cities outside of Metro on January 1, 2016, regardless whether they use the new streamlined process of the current “traditional” method. In other words, this portion of the new law is mandatory rather than optional for all cities outside Metro choosing to amend their UGB regardless of which method they choose. The new “locational” requirements are substantially the same as previous requirements, but include a couple of key differences, and these differences will be clarified in the new rules.

III. PROGRESS REPORT

DLCD is on track to propose a set of draft rules in early September – DLCD has begun to draft the new rules but has not provided a draft to the RAC at the time of this report. It is suggested that LCDC will need at least two meetings to consider and adopt the rules. It is also anticipated that amendments to Goal 14 will also be proposed in the same time frame and adopted simultaneously with the new rules. The rules must be adopted by January 1, 2016, which is when the legislation takes effect. The first LCDC meeting to consider draft rule and goal amendments would be scheduled for LCDC’s September 24-25, 2015 meeting. The second and final hearing would be at the December 3-4, 2015, LCDC meeting in Medford.

The UGB Rules Advisory Committee began meeting in October 2013 and has met 11 times, (including the upcoming July 15 meeting which will occur after issuance of this report). In addition, DLCD has established numerous small groups to provide discussion on various topics associated with the new process. Some of these groups are still meeting at the time of this report.

One important function of the RAC has been to provide advice and discussion regarding key research projects associated with the new process. Research is necessary since various factors and ranges must be based on information that can only be obtained by new research (research is discussed in more detail below). HB 2254 included funding for research.

The work of DLCD and the RAC on this rule project is guided in part by a DLCD list of “policy issues” and “research projects.” Attachment D to this report summarizes these. The RAC agreed that it will discuss each of these issues and attempt to reach a consensus prior to drafting of the rules.

IV. RESEARCH

HB 2254 requires that the new rules provide simple ways to project land need, density, infill, housing mix, employment need and related matters. The law requires that the rules include “factors” and “ranges” to help local governments convert forecasts of population and employment growth into forecasts of land need for housing, employment, and other categories of uses. These factors and ranges must be provided in the rules based on research concerning rates and trends of land utilization in Oregon’s recent past.

To empirically evaluate rates and trends of land utilization in Oregon’s recent past, DLCD entered into a contract with the University of Oregon Community Service Center (UO).

Recently, UO has completed detailed studies concerning changes in the density and efficiency of land uses in cities over time (the UO researchers summarized their ongoing research at the September 2014 LCDC meeting). The completed UO reports will be available soon at (<http://www.oregon.gov/LCD/Pages/UGB-Streamlining.aspx>). Additional research also examined changes occurring or expected to occur in the markets for urban land uses in the major regions of the state, presented as a “white paper” with summary information on trends relating to land markets. That paper will also be available soon at <http://www.oregon.gov/LCD/Pages/UGB-Streamlining.aspx>.

V. CONCLUSION AND RECOMMENDATION

This is an informational briefing; no LCDC action is requested.

VI. ATTACHMENTS

A. ORS 197A (HB 2254):

http://www.oregon.gov/LCD/docs/rulemaking/UGB_RAC/Flowchart4.pdf

B. Membership of the Rules Advisory Committee: [UGB RAC Members](#)

C. Flow Chart for New UGB Process:

http://www.oregon.gov/LCD/docs/rulemaking/UGB_RAC/Flowchart4.pdf

D. List of Issues and Research:

http://www.oregon.gov/LCD/docs/rulemaking/UGB_RAC/PolicyResearchTasksUGBStreamliningRulemaking.pdf