

660-003-0005

Definitions

For purposes of this rule, the definitions contained in ORS 197.015 apply. In addition, the following definitions apply:

(1) "Acknowledgment of Compliance" is an order of the commission issued pursuant to ORS 197.251(1) that certifies that a comprehensive plan and land use regulation, land use regulations or plan or regulation amendment [~~conforms~~]complies with the goals.

(2) "Affected Agencies and Districts" are state and federal agencies, special districts and other local governments having programs affecting land use.

(3) "Comments" are opinions, beliefs, or other information which a person, local coordinating body or local government wants the commission to consider in reviewing an acknowledgment request.

(4) "Objections" are statements or positions by persons (including the local coordinating body, affected agencies or districts) opposing the granting of an Acknowledgment of Compliance.

(5) "Compliance Schedule" is a listing of the tasks which a local government must complete in order to bring its comprehensive plan, land use regulations and land use decisions into initial [~~conformity~~]compliance with the goals, including a generalized time schedule showing when the tasks are estimated to be completed and when a comprehensive plan or land use regulations which comply with the goals are estimated to be adopted.

(6) "Urban Planning Area" is a geographical area within an urban growth boundary.

(7) "Continuance" is an order of the commission issued pursuant to ORS 197.251(1) that certifies that a comprehensive plan, land use regulations or both do not comply with one or more goals and certifies that section(s) of the plan or regulation or both comply with one or more of the goals. The order specifies amendments or other action that the local government must complete within a specified time period for acknowledgment to occur. The order is final for purposes of judicial review of the comprehensive plan, land use regulation or both as to the goals with which the plan, regulation or both the plan and regulation are in compliance.

(8) "Denial" is an order of the commission issued pursuant to ORS 197.251(1) that certifies that a comprehensive plan, land use regulations or both do not comply with one or more goals. The order specifies amendments or other actions that the local government must complete for acknowledgment to occur. The order is used when the amendments or other changes required in the comprehensive plan, land use regulation or both affect many goals and are likely to take a substantial period of time to complete.

(9) "Record of Proceedings Before the Local Government", as used in ORS 197.251, means the materials submitted to the director as part of an acknowledgment request in accordance with OAR 660-003-0010(2)(a), (b) and (c), supporting evidence and documents and any official minutes or tapes of meetings leading to the adoption of a comprehensive plan, land use regulations or amendments thereto. Supporting evidence and documents listed, but not submitted with the acknowledgment request as provided in OAR 660-003-0010(2)(b) shall be considered part of the record of proceedings before the local government and part of the record of proceedings before the local government and part of the record before the commission. Notwithstanding the requirements of OAR 660-003-0010(2)(b) the director may require that such evidence or documents, or a copy, be

provided to the department for convenience or if required for judicial review. This definition applies to all acknowledgment requests, corrections submitted pursuant to a commission's continuance order and new acknowledgement requests subsequent to a commission's denial order submitted to the director after the effective date of this rule. (10) "Filing" or "Submitted" for purposes of these rules shall mean that the required documents have been received by the ~~[D]department [of Land Conservation and Development]~~ at its Salem, Oregon office.

Stat. Auth.: ORS ~~[183 &]~~ ORS 197.**040**

Stats. Implemented: ORS 197.015 & ORS 197.251

Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1985, f. & ef. 7-2-85

660-003-0010

Acknowledgment Procedures

(1) When a local government has adopted a comprehensive plan and land use regulations, as provided by ORS 197.175 and 197.250, prepared corrections pursuant to a commission's continuance order, or prepares a new acknowledgment request subsequent to a commission's denial order, it may request the commission to grant an acknowledgment of compliance. An acknowledgment request shall be sent to the ~~[D]director of the [D]department. [, Salem, OR 97310.]~~

(2) The acknowledgment request shall include:

(a) A list by ordinance number and adoption date and six copies of the plans and implementing ordinances or land use regulations, inventories and other factual information to be reviewed, provided that two additional copies shall be required by the director for counties and coastal jurisdictions;

(b) Six copies of a list of all supporting documents, including minutes and tapes which comprise the "record of proceedings" provided that two (2) additional copies shall be required by the director for counties and coastal jurisdictions. The list of all supporting evidence and documents shall identify any items not included with each plan copy, briefly describe the contents of the items not included and identify where those items may be examined by the commission, ~~[D]department~~, affected agencies and districts and interested persons. The local government shall make such supporting evidence and documents available at the hearing before the commission held pursuant to OAR 660-003-0025;

(c) Six copies of a written statement setting forth the means by which a plan for management of the unincorporated area within the urban growth boundary will be completed and by which the urban growth boundary may be modified (unless the same information is incorporated in other documents submitted in the acknowledgment request), provided that two additional copies shall be required by the director for counties and coastal jurisdictions;

(d) The name and address of the person representing the local government to receive notice of commission consideration of the acknowledgment request and to receive a copy of the director's report required under OAR 660-003-0025;

(e) A list of all affected agencies and districts, including addresses, identified in the local government's agency involvement program; **and**

- (f) A list of the names and addresses of the chairperson of the Committee for Citizen Involvement and other citizen advisory committees, if any.~~[- and]~~
- (3) The local government requesting acknowledgment shall send a single copy of the materials described in section (2) of this rule to the appropriate local coordination body as defined in ORS 195.025.
- (4) Upon receipt of a compliance acknowledgment request, the department shall review the request to determine whether the request for acknowledgment contains each of the documents and information required by section (2) of this rule. The department may decline to accept an acknowledgment request submitted for only a portion of the area of a local government.
- (5) If the request is complete, the department shall commence its review of the request as required by OAR 660-003-0025 and shall provide the public notice required by OAR 660-003-0015.
- (6) If the request is not complete, the department, within 14 days of receipt of the acknowledgment request, shall in writing, notify the local government what specific requirements of section (2) of this rule have not been met. If, after 30 days from receipt of an acknowledgment request a city or county has not provided the department with the required documents or information, the department shall advise the local government that the request is not complete and shall in writing inform the local government and local coordinating body of such determination.
- (7) For purposes of the 90 day period as used in ORS 197.251(1), "request" means an acknowledgment request determined by the department to include all the necessary materials required by subsections (2)(a) through (f) of this rule, and thus be complete.
- (8) Notwithstanding any of the provisions of section (1) of this rule, when the director determines that a modification of any of the above rules is consistent with the applicable laws and in the best interests of the public, he may make exceptions to the application of section (2) of this rule. However, in waiving or modifying the above rules, the director must assure a reasonable opportunity to review documents and prepare and submit comments and objections.

Stat. Auth.:~~[- ORS 183 &]~~ ORS 197.**040**

Stats. Implemented: ORS 197.251

Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 6-1979(Temp), f. & ef. 9-6-79; LCD 1-1980, f. & ef. 1-14-80; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1985, f. & ef. 7-2-85

660-003-0015

Notice

The ~~[director of the]~~ department shall, in writing, provide notice of the procedures and time limits for making comments or objections and of the locations where the acknowledgment request documents can be inspected by the general public and specifically to the following (except as provided in OAR 660-003-0032 through 660-003-0050):

- (1) Affected agencies and districts identified by the local government or the department;
- (2) The Local Officials Advisory Committee (LOAC) and the State Citizen Involvement Advisory Committee (CIAC);

- (3) The county or regional planning agency acting as the local coordination body pursuant to ORS 195.025;
- (4) The chairpersons of the local Committee(s) for Citizen Involvement and other citizen advisory committees identified in the acknowledgment request pursuant to OAR 660-003-0010(2)(f);
- (5) Any other person(s) who have in writing to the department requested notice.

Stat. Auth.: [~~ORS 183, ORS 196 &~~] ORS 197.**040**

Stats. Implemented: ORS 197.251

Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1990, f. & cert. ef. 6-6-90

660-003-0020

Comments and Objections

- (1) After notice of receipt of the acknowledgment request has been mailed there shall be a 45 day period to submit written comments or objections together with any additional evidence to the department. However, after notice of receipt of the acknowledgment request resubmitted subsequent to a continuance order has been mailed there shall be a time period determined by the director of at least 20 days to submit written comments or objections together with any additional evidence to the department.
- (2) Any person(s) commenting or objecting to an acknowledgment request are urged to send written copy of their comments or objection(s) to the local government which has requested acknowledgment. When an objection is based upon site-specific goal requirements as applied to particular properties, the person objecting is urged to send a written copy of the objection to those persons owning the property which is the subject of the objection. State agency and special district comments or objections shall be subject to the requirements of ORS 197.254.
- (3) The commission shall consider only those comments and objections to an acknowledgment request [~~in which the commentor or objecting person~~] **that** allege[s] that the local government's plan, ordinances or land use regulations do or do not [~~conform~~] **comply** with one or more of the goals.
- (4) Any comments and objections or additional evidence which is not received by the department within the time required by section (1) of this rule shall not be considered by the commission unless the commission determines that such evidence could not have been presented as required by section (1) of this rule.

Stat. Auth.: [~~ORS 183 &~~] ORS 197.**040**

Stats. Implemented: ORS 197.251 & ORS 197.254

Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1985, f. & ef. 7-2-85

660-003-0025

Acknowledgment Review

- (1) When an acknowledgment request, corrections submitted pursuant to a commission's continuance order or a new acknowledgement request subsequent to a commission's denial order has been received by the [~~commission, the~~] director, **the department** shall

conduct an evaluation of the submitted plan, ordinances or land use regulations in order to advise the commission whether or not they comply with the Statewide Planning Goals. The ~~[director]~~ **department** may investigate and resolve issues raised in the comments and objections or upon the ~~[director's]~~ **department's** own review of the comprehensive plan and land use regulations. The ~~[director]~~ **department** may collect or develop evidence which rebuts any supporting documents, comments, objections or evidence submitted pursuant to OAR 660-003-0010(2) or 660-003-0020(1). The results of this evaluation including response to all objections timely submitted shall be set forth in a written report. However, the failure to respond to an objection which was timely filed shall not be grounds for invalidation of a commission order issued under this rule. Copies of the ~~[director's]~~ **department's** report shall be sent to the local government requesting acknowledgment, the local coordination body, any person who has in writing commented or objected to the acknowledgment request, within the time period required by OAR 660-003-0020(1), and any other person requesting a copy in writing. The department shall send out copies of the report on an acknowledgment request at least 21 days before commission review of the acknowledgment request. However, the department shall send out copies of the report on corrections submitted pursuant to a commission's continuance order at least 14 days before commission review of such request.

(2) The local government, persons who have submitted written comments or objections under OAR 660-003-0020(1) or persons who own property which is the subject of site specific objections received under OAR 660-003-0020(1) shall have ten calendar days from the date of mailing of the ~~[director's]~~ **department's** report to file ~~[with the director]~~ written exceptions to that report. Except as provided in section (3) of this rule, written exceptions shall not include additional evidence. Persons or local governments submitting exceptions are urged to file a copy with the affected local government ~~[or]~~ **and** ~~[affected]~~ **persons who submitted** comment~~[or]~~s or object~~[or]~~s~~ions~~. The ~~[director]~~ **department** shall promptly submit exceptions to the commission.

(3) Written exceptions to the ~~[director's]~~ **department's** report filed pursuant to section (2) of this rule may include evidence to rebut any additional evidence submitted pursuant to OAR 660-003-0020(1) or developed by the ~~[director]~~ **department** pursuant to section (1) of this rule. Written exceptions which include rebuttal evidence pursuant to this section, shall clearly identify the additional evidence being rebutted and shall be limited to rebuttal evidence. Final rebuttal evidence allowed under this section shall not create a right to submit additional evidence to the commission under section (5) of this rule.

(4) The ~~[director]~~ **department** may submit a written or oral opinion to the commission regarding any evidence, comments, objections, or exceptions submitted to the commission concerning an acknowledgment request. Persons submitting comments, objections, or exceptions within the time periods set forth in OAR 660-003-0020(1) or section (2) of this rule shall be permitted to submit evidence to rebut any new evidence submitted for the first time pursuant to section (3~~[4]~~) of this rule.

(5) The commission may allow any person who filed written comments or objections within the time period set forth in OAR 660-003-0020(1) to appear before the commission to present oral argument on their written comments, objections or exceptions. The commission shall not allow any additional evidence and testimony~~[,]~~ that could have been presented to the local government or to the director in accordance with OAR 660-003-0020(1) or section (3) of this rule, but was not. Any new evidence

submitted during, or as part of, oral argument shall not be considered by the commission unless the commission determines that such evidence could not have been presented to the local government or to the director in accordance with OAR 660-003-0020(1) or [6]section (3) of this rule.

(6) The commission may allow any interested person who has not filed written comments or objections pursuant to OAR 660-003-0020 to comment on evidence, testimony or the director's report that has already been presented to the commission. Such comments shall not be part of the record before the commission and shall not be considered comments or objections submitted pursuant to ORS 197.251(2).

(7) At the time of consideration of the acknowledgment request, the commission shall either grant, continue, postpone for extenuating circumstances or deny the acknowledgment request, **or any combination of these actions including partial acknowledgment,** pursuant to ORS 197.251(1).

(8) Commission orders for acknowledgment, continuance or denial shall be provided to the local government requesting acknowledgment, and [~~commentors and objectors~~] **persons who filed comments or objections.**

(9) When the commission resumes its consideration of the acknowledgment request, submitted subsequent to a continuance order, it shall limit its review to a determination of whether the corrections submitted bring the acknowledgment submission into [~~conformance~~] **compliance** with the Statewide Planning Goals found not to be complied with in the previous review, unless [~~conformance~~] **compliance** with other goals is affected by the corrections.

Stat. Auth.: ORS [~~183 &~~]197.**040**

Stats. Implemented: ORS 197.251, 197.254, 197.340, 197.747 & 197.757

Hist.: LCD 8-1978, f. 6-30-78, ef. 7-2-78; LCD 9-1981(Temp), f. & ef. 10-1-81; LCD 13-1981, f. & ef. 12-15-81; LCDC 3-1985, f. & ef. 7-2-85; LCDD 3-2004, f. & cert. ef. 5-7-04

660-003-0032

Expedited Review Upon Reconsideration or Consideration of a Subsequent Request for Acknowledgment

(1) When the commission reconsiders an acknowledgment request pursuant to a continuance order, the commission may expedite the acknowledgment procedure[~~:-B~~] **by** waiving, reducing or otherwise modifying the requirements of OAR 660-003-0010, 660-003-0015, and 660-003-0020; provided, however, that notice will be provided to the local government, the coordination body, those persons who have submitted comments or objections on this portion of the acknowledgment request in accordance with the requirement of OAR 660-003-0020(1) and (2), those persons who request notice in writing, and a general newspaper notice. Upon resubmittal such notice shall state that there is at least a 20 day period to be determined by the director for submission of written comments or objections from the mailing of the notice of the receipt of the acknowledgment request. However, in the judgment of the director, where continuances involve relatively complex issues, the notice shall provide the maximum notice possible, up to 45 days.

(2) When the commission reconsiders an acknowledgment request subsequent to a continuance order; the commission shall expedite the acknowledgment procedure by relying on the previous record and limiting additional comments and objections, affected agency comments, and the ~~[director's]~~ **department's** review to only those aspects of a city's or county's comprehensive plan or implementing ordinances previously identified by the commission as not being in compliance.

(3) Upon receipt of corrections made pursuant to a continuance order submitted by a local government the department shall notify all persons who are entitled to notice of the local government's acknowledgment request under ~~[sub]section (1)(a)~~ of this rule, of the time and place where the corrections may be inspected and the time within which objections or comments to the corrections must be submitted.

(4) Written comments or objections to the corrections made pursuant to a continuance order by the commission shall be submitted to the department in accordance with OAR 660-003-0020.

(5) The commission's review of corrections made pursuant to a continuance order or the commission's review of a new acknowledgment request made subsequent to a denial by the commission will be conducted in accordance with the requirements of OAR 660-003-0025.

Stat. Auth.: ~~[ORS 183 &]~~ORS 197.**040**

Stats. Implemented: ORS 197.251

Hist.: LCD 9-1981(Temp), f. & ef.10-1-81; LCD 13-1981, f. & ef. 12-15-81

660-003-0033

Expedited Notice Procedure for Acknowledgment

(1) When during an acknowledgment review, a city or county changes its plan or land use regulations after the comment period provided for in either OAR 660-003-0020(1) or 660-003-0032(1), the director may determine that additional notice to the public or persons who have submitted comments or objections is not necessary prior to consideration of the jurisdiction's acknowledgment request by the commission. In making this determination, the director shall carefully consider the complexity of the goal compliance issues involved, the nature and number of comments and objections previously received, the opportunities provided by the jurisdiction for public review and comment on recent amendments and the length of time between the adoption of the recent amendments and the date of commission action on the jurisdiction's acknowledgment request. The department shall work closely with persons who have previously submitted comments and objections and the jurisdiction to resolve any conflicts concerning the additional amendments prior to commission action on the acknowledgment request.

(2) The director may forego additional notice to the public and persons who have submitted comments or objections only if the jurisdiction provides general notice to the public and notifies ~~[previous commentors and objectors]~~ **persons who submitted comments or objections** in writing of an opportunity to participate in the local hearing(s) regarding the adoption of the additional amendments. The jurisdiction shall send a copy of the written notice to all ~~[previous commentors and objectors]~~ **persons who submitted comments or objections** and to the department in Salem. ~~[If the jurisdiction fails to send~~

~~commentors and objectors, the director shall provide notice in the manner established in OAR 660-003-0020(1) or 660-003-0032(1)].~~

(3) When the commission considers the jurisdiction's request for acknowledgment, the commission shall allow testimony from the public or persons who have submitted comments or objections which allege inadequate opportunity for review of the jurisdiction's amendment adopted after the comment deadline. If the commission determines that further notice and opportunity for comment is needed, or if additional opportunity to file exceptions to the director's report under ORS 197.251(3) is required, it shall instruct the director to provide such notice and opportunity for comment before the commission acts on the jurisdiction's acknowledgment request.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.251

Hist.: LCDC 6-1983, f. & ef. 7-20-83

660-003-0050

Review Upon Remand or Reversal From Oregon Court of Appeals or Oregon Supreme Court

(1) The commission shall reconsider an acknowledgment request as a result of a remand or reversal from the Oregon Court of Appeals or Oregon Supreme Court within 90 days of the date the decision becomes final. The director shall review the Court's decision and make written recommendations to the commission regarding any additional planning work that is required for acknowledgment of compliance with the goals as a result of the Court's decision.

(2) The director's recommendations shall be sent out at least 14 days before the commission's reconsideration of the acknowledgment request subject to the Court's remand or reversal. The director's recommendations shall be sent to the applicable local government, local coordination body, parties on appeal and those persons who, according to the department's records, were mailed a copy of the commission's acknowledgment or continuance order subject to the Court's remand or reversal.

(3) The persons mailed a copy of the director's recommendations under section (2) of this rule shall have ten calendar days from the date of mailing of the director's recommendations to file with the director written exceptions to those recommendations.

(4) The director may submit a written or oral opinion to the commission regarding exceptions submitted to the commission concerning the remand or reversal.

(5) The commission may allow any person who received a copy of the director's recommendation under section (1) of this rule or who filed written exceptions within the time period set forth in section (3) of this rule to appear before the commission to present oral comments on the director's recommendation or their written exceptions. The commission shall not allow additional evidence to be presented which was not part of the record of the commission's initial acknowledgment review subject to the Court's remand or reversal.

(6) The commission may allow any interested person who was not mailed a copy of the director's recommendation or did not file a written exception pursuant to sections (1) and (3) of this rule to comment on the director's recommendation or submitted written exceptions.

(7) Following review of the director's recommendation and any exceptions, the commission shall enter a continuance order for those parts of the comprehensive plan or land use regulations for which the court determined that goal compliance had not been demonstrated. The commission may also enter a limited acknowledgment order for parts of the comprehensive plan and land use regulations not affected by the continuance order.

(8) The commission's review of corrections made pursuant to an order issued pursuant to section (7) of this rule will be conducted in accordance with the requirements of OAR 660-003-0025 or 660-003-0033.

Stat. Auth.: [~~ORS 183 &~~] ORS 197.**040**

Stats. Implemented: ORS 197.251

Hist.: LCDC 6-1985, f. & ef. 11-15-85