

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 25 PERIODIC REVIEW Draft Amendments January 6, 2012

1 **660-025-0010**

2 **Purpose**

3 The purpose of this division is to carry out the state policy outlined in ORS 197.010 and
4 197.628. This division is intended to implement provisions of ORS 197.626 through
5 197.651. The purpose for periodic review is to ensure that comprehensive plans and land
6 use regulations remain in compliance with the statewide planning goals adopted pursuant
7 to ORS 197.230, the commission's rules and applicable land use statutes. Periodic review
8 also is intended to ensure that local government[s] plans **and regulations make** ~~[for]~~
9 adequate provision for **economic development**, needed housing, ~~[economic~~
10 ~~development,~~] transportation, public facilities and services, and urbanization, and that
11 local plans are coordinated as described in ORS 197.015(5). Periodic Review is a
12 cooperative **planning** process ~~[between]~~ **that includes** the state **and its agencies**, local
13 governments, and other interested persons.

14 Stat. Auth.: ORS ~~[183 &]~~ **197.040 & 197.633**

15 Stats. Implemented: **ORS 197.010**, ORS 197.626~~[8]~~ - 197.651~~[46]~~

16 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD
17 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f &
18 cert. ef. 10-19-11

19 **660-025-0020**

20 **Definitions**

21 For the purposes of this division, the definitions contained in ORS 197.015, 197.303, **and**
22 **197.747** shall apply unless the context requires otherwise. In addition, the following
23 definitions apply:

24 (1) "Economic Revitalization Team" means the team established under ORS 284.555.

25 (2) "Filed" or "Submitted" means that the required documents have been received by the
26 Department of Land Conservation and Development at its Salem, Oregon, office.

27 (3) "Final Decision" means the completion by the local government of a work task on an
28 approved work program, including the adoption of supporting findings and any
29 amendments to the comprehensive plan or land use regulations. A decision is final when
30 the local government's decision **bearing the necessary signatures of the decision**
31 **maker(s)** is ~~[transmitted]~~ **sent** to the department for review.

32 (4) "Metropolitan planning organization" means an organization located wholly within
33 the State of Oregon and designated by the Governor to coordinate transportation planning
34 in an urbanized area of the state pursuant to 49 USC § 5303(c).

1 (5) "Objection" means a written complaint concerning the adequacy of an evaluation,
2 proposed work program, or completed work task.

3 (6) "Participated at the local level" means to have provided substantive comment,
4 evidence, documents, correspondence, or testimony to the local government during the
5 local proceedings regarding a decision on an evaluation, work program or work task.

6 (7) "Work Program" means a detailed listing of tasks necessary to revise or amend the
7 local comprehensive plan or land use regulations to ensure the plan and regulations
8 achieve the statewide planning goals. A work program must indicate the date that each
9 work task must be submitted to the department for review.

10 (8) "Work Task" or "task" means an activity that is included on an approved work
11 program and that generally results in an adopted amendment to a comprehensive plan or
12 land use regulation.

13 Stat. Auth.: ORS [183 &] 197.**040 & 197.633**
14 Stats. Implemented: ORS 197.015 & 197.628 - 197.646
15 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
16 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f &
17 cert. ef. 10-19-11

18 **660-025-0030**
19 **Periodic Review Schedule**

20 (1) The commission must approve, and update as necessary, a schedule for periodic
21 review. The schedule must include the date when **the department, pursuant to ORS**
22 **197.629, must send a** [each] local government [~~must be sent~~] a letter [~~by the department~~]
23 requesting the local government to commence the periodic review process.

24 (2) The schedule developed by the commission must reflect the following:

25 (a) A city with a population of more than 2,500 within a metropolitan planning
26 organization or a metropolitan service district shall conduct periodic review every seven
27 years after completion of the previous periodic review.

28 (b) A city with a population of 10,000 or more inside its urban growth boundary that is
29 not within a metropolitan planning organization shall conduct periodic review every 10
30 years after completion of the previous periodic review.

31 (c) A county with a portion of its population within the urban growth boundary of a city
32 subject to periodic review under this section shall conduct periodic review for that
33 portion of the county according to the schedule and work program set for the city.

34 (d) Notwithstanding subsection (c) of this section, if the schedule set for the county is
35 specific as to that portion of the county within the urban growth boundary of a city

1 subject to periodic review under this section, the county shall conduct periodic review for
2 that portion of the county according to the schedule and work program set for the county.

3 (3) The commission may establish a schedule that varies from the standards in section (2)
4 of this rule if necessary to coordinate approved periodic review work programs or to
5 account for special circumstances. The commission may schedule a local government's
6 periodic review earlier than provided in section (2) of this rule if necessary to ensure that
7 all local governments in a region whose land use decisions would significantly affect
8 other local governments in the region are conducting periodic review concurrently, but
9 not sooner than five years after completion of the previous periodic review.

10 (4) The director must maintain and implement the schedule. Copies of the schedule must
11 be provided upon request.

12 Stat. Auth.: ORS 197.040 & 197.633

13 Stats. Implemented: ORS 197.628 - 197.646

14 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD
15 4-2006, f. & cert. ef. 5-15-06

16 **660-025-0035**

17 **Initiating Periodic Review Outside the Schedule**

18 (1) A [~~local government~~] **city or county** may request, and the commission may approve,
19 initiation of periodic review not otherwise provided for in the schedule established under
20 OAR 660-025-0030. The request must be submitted to the commission along with
21 justification for the requested action. The justification must include a statement of local
22 circumstances that warrant periodic review and identification of the statewide planning
23 goals to be addressed.

24 (2) In consideration of the request filed pursuant to section (1), the commission must
25 consider the needs of the jurisdiction to address the issue(s) identified in **the request for**
26 periodic review, the interrelationships of the statewide planning goals to be addressed in
27 the periodic review project, and other factors the commission finds relevant. If the
28 commission approves the request, the provisions of this division apply, except as
29 provided in section (3) of this rule.

30 (3) The Economic Revitalization Team may work with a city to create a voluntary
31 comprehensive plan review that focuses on the unique vision of the city, instead of
32 conducting a standard periodic review, if the team identifies a city that the team
33 determines can benefit from a customized voluntary comprehensive plan review. In order
34 for a voluntary comprehensive plan review to be initiated by the commission, the city
35 must request initiation of such a modified periodic review. The provisions of this division
36 apply except as follows:

- 1 (a) If the city is subject to the periodic review schedule in OAR 660-025-0030, the
 2 periodic review under this section will not replace or delay the next scheduled periodic
 3 review;
- 4 (b) If the city misses a deadline related to an evaluation, work program or work task,
 5 including any extension, the commission must terminate the evaluation, work program, or
 6 work task or impose sanctions pursuant to OAR 660-025-0170(3).
- 7 (4) If the commission pays the costs of a local government that is not subject to OAR
 8 660-025-0030 to perform new work programs and work tasks, the commission may
 9 require the local government to complete periodic review when the local government has
 10 not completed periodic review within the previous five years if:
- 11 (a) A city has been growing faster than the annual population growth rate of the state for
 12 five consecutive years;
- 13 (b) A major transportation project on the Statewide Transportation Improvement Program
 14 that is approved for funding by the Oregon Transportation [e]Commission is likely to:
- 15 (A) Have a significant impact on a city or an urban unincorporated community; [øf]
- 16 (B) Be significantly affected by growth and development in a city or an urban
 17 unincorporated community;
- 18 (c) A major facility, including a prison, is sited or funded by a state agency; or
- 19 (d) Approval by the city or county of a facility for a major employer will increase
 20 employment opportunities and significantly affect the capacity of housing and public
 21 facilities in the city or urban unincorporated community.
- 22 (5) As used in section (4) of this rule, "the costs of a local government" means: normal
 23 and customary expenses for supplies, personnel and services directly related to preparing
 24 a work program, and completing studies and inventories, drafting of ordinances,
 25 preparing and sending notices of hearings and meetings, conducting meetings and
 26 workshops, and conducting hearings on possible adoption of amendments to plans or
 27 codes, to complete a work task.

28 Stat. Auth.: ORS 197.040 & 197.633
 29 Stats. Implemented: ORS 197.628 - ORS 197.646
 30 Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06

31 **660-025-0040**
 32 **Exclusive Jurisdiction of LCDC**

33 (1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction [to] **for**
 34 review **of** [the evaluation, work program, and] **completed periodic review** work tasks for
 35 compliance with the statewide planning goals and applicable statutes and administrative

1 rules, as set forth in ORS 197.633(3). The director also has authority to review the
2 periodic review evaluation, work program and completed work tasks, as set forth in
3 ORS 197.633 and 197.644.

4 (2) Pursuant to ORS 197.626, the commission has exclusive jurisdiction [~~to~~] for review
5 of the following final land use decisions for compliance with the statewide planning
6 goals:

7 [~~(a) If made by a city with a population of 2,500 or more inside its urban growth~~
8 ~~boundary, amendments to an urban growth boundary to include more than 50 acres;~~

9 ~~(b) If made by a metropolitan service district, amendments to an urban growth boundary~~
10 ~~to include more than 100 acres;~~

11 ~~(c) plan and land use regulations that designate urban reserve areas.]~~

12 (a) An amendment of an urban growth boundary by a metropolitan service district
13 that adds more than 100 acres to the area within its urban growth boundary;

14 (b) An amendment of an urban growth boundary by a city with a population of
15 2,500 or more within its urban growth boundary that adds more than 50 acres to the
16 area within the urban growth boundary;

17 (c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a
18 metropolitan service district or by a city with a population of 2,500 or more within
19 its urban growth boundary;

20 (d) An amendment of the boundary of an urban reserve by a metropolitan service
21 district;

22 (e) An amendment of the boundary of an urban reserve to add more than 50 acres
23 to the urban reserve by a city with a population of 2,500 or more within its urban
24 growth boundary; and

25 (f) A designation or an amendment to the designation of a rural reserve under
26 ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service
27 district, including an amendment of the boundary of a rural reserve.

28 (3) A final order of the commission pursuant to sections (1) or (2) of this rule may be
29 subject to judicial review in the manner provided in applicable provisions of ORS
30 197.650 and 197.651.

31 (4) The director may transfer one or more matters arising from review of a work task,
32 urban growth boundary amendment or designation or amendment of an urban reserve
33 area to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-
34 025-0250.

35 Stat. Auth.: ORS 197.040 & 197.633

36 Stats. Implemented: ORS 195.145, 197.628 - 197.646, 197.825

1 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
2 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
3 cert. ef. 5-15-06; LCDD 1-2011, f & cert. ef. 10-19-11

4 **660-025-0050**
5 **Commencing Periodic Review**

6 (1) The department must commence the periodic review process by sending a letter to the
7 [affected] local government pursuant to OAR 660-025-0030 or 660-025-0035. The
8 department may provide advance notice to a local government of the upcoming review
9 and must encourage local governments to review their citizen involvement provisions
10 prior to beginning periodic review.

11 (2) The periodic review commencement letter must include the following information:

12 (a) A description of the requirements for citizen involvement, evaluation of the plan and
13 preparation of a work program;

14 (b) The date **the local government must submit** the evaluation and work program or
15 evaluation and decision that no work program is required [~~must be submitted~~];

16 (c) Applicable evaluation forms; and

17 (d) Other information the department considers relevant.

18 (3) The director must provide copies of the materials sent to the local government to
19 interested persons upon written request.

20 Stat. Auth.: ORS 197.040 & 197.633

21 Stats. Implemented: ORS 197.628 - 197.646

22 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

23 **660-025-0060**
24 **Periodic Review Assistance Team(s)**

25 (1) The director may create one or more Periodic Review Assistance Team(s) to
26 coordinate state, regional or local public agency comment, assistance, and information
27 into the evaluation and work program development process. The director must seek input
28 from agencies, regional governments and local governments on the membership of
29 Periodic Review Assistance Team(s).

30 (2) Members of the Periodic Review Assistance Team will provide, as appropriate:

31 (a) Information relevant to the periodic review process;

32 (b) New and updated information;

- 1 (c) Technical and professional land use planning assistance; or
- 2 (d) Coordinated evaluation and comment from state agencies.
- 3 (3) Membership. The Periodic Review Assistance Team may include representatives of
- 4 state agencies with programs affecting land use described in ORS 197.180, and
- 5 representatives of regional or local governments who may have an interest in the review.
- 6 (4) Meetings. The Periodic Review Assistance Team shall meet as necessary to provide
- 7 information and advice to a local government in periodic review.
- 8 (5) Authority. The Periodic Review Assistance Team shall be an advisory body. The
- 9 team may make recommendations concerning an evaluation, a work program or work
- 10 task undertaken pursuant to an approved work program. The team may also make
- 11 recommendations to cities, counties, state agencies and the commission regarding any
- 12 other issues related to periodic review.
- 13 (6) In addition to the Periodic Review Assistance Team(s), the department may utilize the
- 14 Economic Revitalization Team or institute an alternative process for coordinating agency
- 15 participation in the periodic review of comprehensive plans.
- 16 (7) [~~Consideration by the commission.~~] The commission must consider the
- 17 recommendations, if any, of the Periodic Review Assistance Team(s).

18 Stat. Auth.: ORS 197.040 & 197.633

19 Stats. Implemented: ORS 197.628 - 197.646

20 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

21 **660-025-0070**

22 **Need for Periodic Review**

23 (1) The following conditions indicate the need for [~~and establish the scope of review~~

24 ~~for,~~] periodic review of comprehensive plans and land use regulations when **periodic**

25 **review is** required under OAR 660-025-0030:

26 (a) There has been a substantial change in circumstances including but not limited to the

27 conditions, findings, or assumptions upon which the comprehensive plan or land use

28 regulations were based, so that the comprehensive plan or land use regulations do not

29 comply with the statewide planning goals relating to economic development, needed

30 housing, transportation, public facilities and services and urbanization;

31 (b) Decisions based on acknowledged comprehensive plan and land use regulations are

32 inconsistent with the goals relating to economic development, needed housing,

33 transportation, public facilities and services and urbanization;

1 (c) There are issues of regional or statewide significance, intergovernmental coordination,
2 or state agency plans or programs affecting land use which must be addressed in order to
3 bring comprehensive plans and land use regulations into compliance with the goals
4 relating to economic development, needed housing, transportation, public facilities and
5 services and urbanization; or

6 (d) **The local government, commission or department determines that** ~~[F]~~the existing
7 comprehensive plan and land use regulations are not achieving the statewide planning
8 goals relating to economic development, needed housing, transportation, public facilities
9 and services and urbanization.

10 (2) When a local government requests initiation of periodic review under OAR 660-025-
11 0035~~(2)~~, the need for periodic review may be based on factors not contained in section
12 (1) of this rule and the scope of such a periodic review may be more limited than would
13 be the case for scheduled periodic review under section (1) of this rule.

14 Stat. Auth.: ORS 197.040 **& 197.633**

15 Stats. Implemented: ORS 197.628 - 197.646

16 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD
17 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

18 **660-025-0080**

19 **Notice and Citizen Involvement**

20 (1) The local government must use its acknowledged ~~[or otherwise approved]~~ citizen
21 involvement program, **or amend the program if necessary consistent with section (2)**
22 **of this rule**, to provide adequate participation opportunities for citizens and other
23 interested persons in all phases of the local periodic review. Each local government must
24 publish a notice in a newspaper of general circulation within the community informing
25 citizens about the initiation of the local periodic review. The local government must also
26 provide written notice of the initiation of the local periodic review to ~~[other]~~ persons who
27 ~~[, in writing,]~~ request, **in writing**, such notice.

28 (2) Each local government must review its citizen involvement program **At the**
29 **beginning of periodic review** and, **if necessary, amend the program to ensure** ~~[assure~~
30 ~~that there is an]~~ **it will provide** adequate **opportunities** ~~[process]~~ for citizen involvement
31 in all phases of the periodic review process. Citizen involvement opportunities must, at a
32 minimum, include:

33 (a) Interested persons must have the opportunity **to review materials in advance and to**
34 **comment in writing in advance of or at one or more hearings on the periodic review**
35 **evaluation.** Citizens and other interested persons must have the opportunity to present
36 comments orally at one or more hearings on the periodic review evaluation. Citizens and
37 other interested persons must have the opportunity to propose periodic review work tasks
38 prior to or at one or more hearings. The local government must provide a response to
39 comments at or following the hearing on the evaluation.

1 (b) Interested persons must have the opportunity to **review materials in advance and to**
2 **comment in writing in advance of or at one or more hearings on a periodic review work**
3 **task. Citizens and other interested persons must have the opportunity to present**
4 **comments orally at one or more hearings on a periodic review work task. The local**
5 **government must respond to comments at or following the hearing on a work task.**

6 **(3) A local government proposing to change an acknowledged comprehensive plan**
7 **or a land use regulation under a work task must provide notice of the proposed**
8 **change to the department 35 days in advance of the first evidentiary hearing, as**
9 **provided in ORS 197.610 and OAR 660-018-0010.**

10 Stat. Auth.: ORS 197.040 & 197.633

11 Stats. Implemented: ORS 197.628 - 197.646

12 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

13 **660-025-0085**

14 **Commission Hearings Notice and Procedures**

15 (1) Hearings before the commission on a referral of a local government submittal of [~~an~~
16 ~~evaluation,] **a** work program [~~, determination that a work program is not necessary,] or
17 hearings on referral or appeal of a work task must be noticed and conducted in
18 accordance with this rule.~~~~

19 (2) The commission shall take final action on an appeal or referral **of a completed work**
20 **task** within 90 days of the date the appeal was filed or the director issued notice of the
21 referral unless:

22 (a) At the request of a local government and a person who files a valid objection or
23 appeals the director's decision, the department may provide mediation services to resolve
24 disputes related to the appeal. Where mediation is underway, the commission shall delay
25 its hearing until the mediation process is concluded or the director, after consultation with
26 the mediator, determines that mediation is of no further use in resolution of the work
27 program or work task disagreements;

28 (b) If the appeal or referral raises new or complex issues of fact or law that make it
29 unreasonable for the commission to give adequate consideration to the issues within the
30 90-day limit the commission is not required to take final action within that time limit; or

31 (c) If the parties to the appeal and the commission agree to an extension, the hearing may
32 be continued for a period not to exceed an additional 90 days.

33 (3) The director must provide written notice of the hearing to the local government, the
34 appellant, objectors, and individuals requesting notice in writing. The notice must contain
35 the date and location of the hearing.

- 1 (4) The director may prepare a written report to the commission on an appeal or referral.
2 If a report is prepared, the director must mail a copy to the local government, objectors,
3 the appellant, and individuals requesting the report in writing.
- 4 (5) Commission hearings will be conducted using the following procedures:
- 5 (a) The chair will open the hearing and explain the proceedings;
- 6 (b) The director or designee will present an oral report regarding the nature of the matter
7 before the commission, an explanation of the director's decision, if any, and other
8 information to assist the commission in reaching a decision. If another state agency
9 participated in the periodic review under ORS 197.637 or 197.638, the agency may
10 participate in the director's oral report.
- 11 (c) Participation in the hearing is limited to:
- 12 (A) The local government or governments whose decision is under review;
- 13 (B) Persons who filed a valid objection to the local decision in the case of commission
14 hearing on a referral;
- 15 (C) Persons who filed a valid appeal of the director's decision in the case of a commission
16 hearing on an appeal; and
- 17 (D) Other affected local governments.
- 18 (d) Standing to file an appeal of a work task is governed by OAR 660-025-0150.
- 19 (e) Persons or their authorized representative may present oral argument.
- 20 (f) The local government that submitted the task may provide general information from
21 the record on the task submittal and address those issues raised in the department review,
22 objections, or the appeal. A person who submitted objections or an appeal may address
23 only those issues raised in the objections or the appeal submitted by that person. Other
24 affected local governments may address only those issues raised in objections or an
25 appeal.
- 26 (g) **As provided in ORS 197.633(3), t[F]**he commission will **confine its review of** [~~not~~
27 ~~consider new~~] evidence **to the local record** [~~unless it requests it, at its discretion. If the~~
28 ~~commission considers new evidence, it will allow the parties an opportunity to review~~
29 ~~and respond to the new evidence, subject to the time limits in section (2) of this rule~~].
30 **The commission will consider evidence from the local record submitted to the**
31 **department with:**
- 32 **(A) The local government's submittal filed pursuant to OAR 660-025-0130(3);**

1 **(B) An objection filed pursuant to OAR 660-025-0140;**

2 **(C) A local government response to an objection filed pursuant to OAR 660-025-**
3 **0130(4); and**

4 **(D) An exception filed pursuant to OAR 660-025-0160(5).**

5 (h) The director or commission may take official notice of law defined as:

6 (A) The decisional, constitutional and public statutory law of Oregon, the United States
7 and any state, territory or other jurisdiction of the United States.

8 (B) Public and private official acts of the legislative, executive and judicial departments
9 of this state, the United States, and any other state, territory or other jurisdiction of the
10 United States.

11 (C) Regulations, ordinances and similar legislative enactments issued by or under the
12 authority of the United States or any state, territory or possession of the United States.

13 (D) Rules of court of any court of this state or any court of record of the United States or
14 of any state, territory or other jurisdiction of the United States.

15 (E) The law of an organization of nations and of foreign nations and public entities in
16 foreign nations.

17 (F) An ordinance, comprehensive plan or enactment of any local government in this state,
18 or a right derived therefrom.

19 Stat. Auth.: ORS 197.040 & 197.633

20 Stats. Implemented: ORS 197.628 - 197.646

21 Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

22 **660-025-0090**

23 **Evaluation, Work Program or Decision that No Work Is Necessary**

24 (1) The local government must conduct an evaluation of its plan and land use regulations
25 based on the periodic review conditions in ORS 197.628 and OAR 660-025-0070. The
26 local evaluation process must comply with the following requirements:

27 (a) The local government must follow its citizen involvement program and the
28 requirements of OAR 660-025-0080 for conducting the evaluation and determining the
29 scope of a work program.

30 (b) The local government must provide opportunities for participation by the department
31 and Periodic Review Assistance Team. **The local government must consider** [H]issues
32 related to coordination between local government comprehensive plan provisions and

1 certified state agency coordination programs that are raised by the affected agency[7] or
2 Periodic Review Assistance Team. ~~[must be considered by the local government.]~~

3 (c) The local government may provide opportunities for participation by the Economic
4 Revitalization Team.

5 (d) At least 21 days before submitting the evaluation and work program, or decision that
6 no work program is required, the local government must provide copies of the evaluation
7 to members of the Periodic Review Assistance Team, if formed, and others who have, in
8 writing, requested copies.

9 (e) After review of comments from interested persons, the local government must adopt
10 an evaluation and work program or decision that no work program is required.

11 (2) The local government must submit the evaluation and work program, or decision that
12 no work program is required, to the department according to the following requirements:

13 (a) The evaluation must include completed evaluation forms that are appropriate to the
14 jurisdiction as determined by the director. Evaluation forms will be based on the
15 jurisdiction's size, growth rate, geographic location, and other factors that relate to the
16 planning situation at the time of periodic review. Issues related to coordination between
17 local government comprehensive plan provisions and certified agency coordination
18 programs may be included in evaluation forms.

19 (b) The local government must also submit to the department a list of persons who
20 requested notice of the evaluation and work program or decision that no work program is
21 required.

22 (c) The evaluation and work program, or decision that no work program is necessary,
23 must be submitted within six months of the date the department sent the letter initiating
24 the periodic review process, including any extension granted under section (3) of this
25 rule.

26 (3) A local government may request an extension of time for submitting its evaluation
27 and work program, or decision that no work program is required. The director may grant
28 the request if the local government shows good cause for the extension. A local
29 government may be permitted only one extension, which shall be for no more than 90
30 days.

31 (4) A decision by the director to deny a request for an extension may be appealed to the
32 commission according to the procedures in OAR 660-025-0110(5), or the director may
33 refer a request for extension under section (3) of this rule to the commission pursuant to
34 OAR 660-025-0085.

35 (5) If a local government fails to submit its evaluation and work program, or decision that
36 no work program is necessary, by the deadline set by the director or the commission,

1 including any extension, the director shall schedule a hearing before the commission
2 according to OAR 660-025-0170(3).

3 **(6) A decision by the director to approve a work program, that no work program is**
4 **necessary or that no further work is necessary, is final and not subject to appeal.**

5 Stat. Auth.: ORS 197.040 & 197.633

6 Stats. Implemented: ORS 197.628 - 197.646

7 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
8 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

9 **660-025-0100**

10 **Notice and Filing of Objections (Work Program Phase)**

11 (1) After the local government approves the evaluation and work program, or the
12 evaluation and decision that no work program is necessary, the local government must
13 notify the department and persons who participated at the local level orally or in writing
14 during the local process. The local government notice must contain the following
15 information:

16 (a) Where a person can review a copy of the local government's evaluation and work
17 program or the evaluation and decision that no work program is necessary, and how a
18 person may obtain a copy of the decision; **and**

19 (b) The requirements listed in section (2) of this rule for filing a valid objection to the
20 evaluation, work program or decision that no work program is necessary; [~~and~~]

21 ~~(c) That objectors must give a copy of the objection to the local government.]~~

22 (2) Persons who participated at the local level orally or in writing during the local process
23 leading to the evaluation and work program or decision that no work program is
24 necessary may object to the local government's decision. To be valid, an objection must:

25 (a) Be in writing and filed with the department's Salem office no later than 21 days from
26 the date the notice was mailed by the local government;

27 (b) Clearly identify an alleged deficiency in the evaluation, work program or decision that
28 no work program is necessary;

29 (c) Suggest a specific work task that would resolve the deficiency;

30 (d) Demonstrate that the objecting party participated at the local level orally or in writing
31 during the local process; **and**

32 **(e) Be provided to the local government.**

1 (3) Objections that do not meet **all** the requirements of section (2) of this rule [~~must~~] **will**
2 not be considered by the director or commission.

3 (4) If **the department does not receive any** [~~no~~] valid objections [~~are received~~] within
4 the 21-day objection period, the director may approve the evaluation and work program
5 or decision that no work program is required. Regardless of whether valid objections are
6 received, the department [~~may~~]**must** make its own determination of the sufficiency of the
7 evaluation and work program or determination that no work program is necessary.

8 (5) If **the department receives one or more** valid objections [~~are received~~], the
9 department must issue a report **that** [~~The report must~~] addresses the issues raised in
10 valid objections. The report must identify specific work tasks to resolve valid objections
11 or department concerns. A valid objection must either be sustained or rejected by the
12 department or commission based on the statewide planning goals and related statutes and
13 administrative rules.

14 Stat. Auth.: ORS 197.040 & 197.633

15 Stats. Implemented: ORS 197.628 - 197.646

16 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
17 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. &
18 cert. ef. 10-19-11

19 **660-025-0110**

20 **Director and Commission Action (Work Program Phase)**

21 (1) **In response to an evaluation and work program submitted to the department**
22 **pursuant to OAR 660-025-0100, t[~~F~~]**he director may:

23 (a) Issue an order approving the evaluation and work program or determination that no
24 work program is necessary; **or**

25 (b) Issue an order rejecting the evaluation and work program or determination that no
26 work program is necessary and suggest modifications to the local government including a
27 date for resubmittal [~~;~~ ~~or~~]

28 [~~(c) Refer the evaluation and work program or determination that no work program is~~
29 ~~necessary to the commission for review and action].~~

30 (2) The director may postpone action, pursuant to [~~sub~~]section[s] (1)[~~(a)-(c)~~] of this rule
31 to allow the department, the jurisdiction, objectors or other persons who participated
32 orally or in writing at the local level to reach agreement on specific issues relating to the
33 evaluation and work program or determination that no work program is necessary.

34 (3) The director must provide written notice of the decision to the local government
35 persons who filed objections, and persons who requested notice of the local government
36 decision.

1 (4) The director's decision to approve an evaluation and work program or determination
2 that no work program is necessary is final and may not be appealed.

3 (5) The director's decision to deny an evaluation and work program or determination that
4 no work program is necessary may be appealed to the commission by the local
5 government, or a person who filed an objection, or other person who participated orally
6 or in writing at the local level.

7 (a) Appeal of the director's decision must be filed with the department within 21 days of
8 the date notice of the director's action was mailed;

9 (b) A person appealing the director's decision must show that the person participated in
10 the local government decision. The person appealing the director's decision must show a
11 deficiency in the director's decision to deny the evaluation, work program or decision that
12 no work program is necessary. The person appealing the director's decision also must
13 suggest a specific modification to the evaluation, work program or decision that no work
14 program is necessary to resolve the alleged deficiency.

15 (6) If no such appeal is filed, the director's decision shall be final.

16 (7) In response to an appeal, the director may prepare and submit a report to the
17 commission. The provisions in OAR 660-025-0160(~~3~~4) and (~~5~~4) apply.

18 (8) The commission shall hear referrals and appeals of evaluations and work programs
19 according to the procedures in OAR 660-025-0085.

20 (9) Following its hearing, the commission must issue an order that either:

21 (a) Establishes a work program; or

22 (b) Determines that no work program is necessary.

23 Stat. Auth.: ORS 197.040 & 197.633

24 Stats. Implemented: ORS 197.628 - 197.646

25 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
26 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

27 **660-025-0130**

28 **Submission of Completed Work Task**

29 (1) A local government must submit completed work tasks as provided in the approved
30 work program to the department along with the notice required in OAR 660-025-0140
31 and any form required by the department. A local government must submit to the
32 department a list of persons who participated orally or in writing in the local proceedings
33 leading to the adoption of the work task or who requested notice of the local
34 government's final decision on a work task.

1 (2) After receipt of a work task, the department must determine whether the submittal is
2 complete.

3 (3) To be complete, a submittal must be a final decision containing all required elements
4 identified for that task in the work program. **The department may accept a [A] portion**
5 **of a task or subtask [may be accepted] as a complete submittal if the work program**
6 **identified that portion of the task or subtask as a separate item for adoption by the local**
7 **government. Task submittals are subject to the following requirements:**

8 (a) If the local record does not exceed 2,000 pages, a submittal must include the entire
9 local record, including but not limited to adopted ordinances and orders, studies,
10 inventories, findings, staff reports, correspondence, hearings minutes, written testimony
11 and evidence, and any other items specifically listed in the work program;

12 (b) If the local record exceeds 2,000 pages, a submittal must include adopted ordinances,
13 **resolutions, and orders[;]; any amended comprehensive or regional framework plan**
14 **provisions or land use regulations; findings[;]; hearings minutes[;]; materials from the**
15 **record that the local government deems necessary to explain the submittal or cites**
16 **in its findings; [written testimony and evidence,] and a detailed index listing all items in**
17 **the local record indicating whether or not the item is** included in the submittal. **All**
18 **[H]items in the local record [not included in the submittal] must be made available for**
19 **public review during the period for submitting objections under OAR 660-025-0140. The**
20 **director or commission may require a local government to submit [submission of] any**
21 **materials from the local record** not included in the initial submittal;

22 (c) A task submittal of over 500 pages must include an index of all submitted materials.

23 (4) A submittal includes only the materials provided to the department pursuant to
24 section (3) of this rule. Following submission of objections pursuant to OAR 660-025-
25 0140, the local government may:

26 **(a) Provide written correspondence that is not part of the local record which identifies**
27 **material in the record relevant to filed objections. The correspondence may not include or**
28 **refer to materials not in the record submitted or listed pursuant to section (3) of this rule.**
29 **The local government must provide the correspondence to each objector at the same time**
30 **it is sent to the department.**

31 **(b) Submit material in the record that were not part of the submittal under**
32 **section (3) if the materials are relevant to one or more filed objections. The local**
33 **government may not include or refer to materials not in the local record. The local**
34 **government must provide the materials to each objector at the same time it is sent to**
35 **the department.**

36 (5) If the department determines that a submittal is incomplete, it must notify the local
37 government. If the department determines that the submittal should be reviewed despite
38 missing information, the department may commence a formal review of the submittal.

1 Missing material may be identified as a deficiency in the review process and be a basis to
2 require further work by the local government.

3 (6) A local government may request an extension of time for submitting a work task. The
4 director may grant the request if the local government shows good cause for the
5 extension. A local government may be permitted only one extension, which shall be for
6 no more than one year.

7 (7) If a local government fails to submit a complete work task by the deadline set by the
8 director, or the commission, including any extension, the director must schedule a
9 hearing before the commission. The hearing must be conducted according to the
10 procedures in OAR 660-025-~~0170(3)~~[0090(5)].

11 Stat. Auth.: ORS 197.040 & 197.633

12 Stats. Implemented: ORS 197.628 - 197.646

13 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
14 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
15 cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

16 **660-025-0140**

17 **Notice and Filing of Objections (Work Task Phase)**

18 (1) After the local government makes a final decision on a work task, the local
19 government must notify the department and persons who participated at the local level
20 orally or in writing during the local process or who requested notice in writing. The local
21 government notice must contain the following information:

22 (a) Where a person can review a copy of the local government's final decision, and how a
23 person may obtain a copy of the final decision;

24 (b) The requirements listed in section (2) of this rule for filing a valid objection to the
25 work task; and.

26 (c) That objectors must give a copy of the objection to the local government.

27 (2) Persons who participated orally or in writing in the local process leading to the final
28 decision may object to the local government's work task submittal. To be valid, **an**
29 objection[s] must:

30 (a) Be in writing and filed with the department's Salem office no later than 21 days from
31 the date the local government mailed the notice;

32 (b) Clearly identify an alleged deficiency in the work task sufficiently to identify the
33 relevant section of the final decision and the statute, goal, or administrative rule the task
34 submittal is alleged to have violated. ;

- 1 (c) Suggest specific revisions that would resolve the objection; ~~and~~
- 2 (d) Demonstrate that the objecting party participated orally or in writing in the local
3 process leading to the final decision.
- 4 (3) Objections that do not meet **all** the requirements of section (2) of this rule will not be
5 considered by the director or commission.

6 **(4) Objectors may refer to the local record or append to their objections any**
7 **document from the local government's record, whether or not it was submitted to**
8 **the department by the local government.**

9 ~~(5)~~(4) If **the department does not receive any** ~~no~~ valid objections are received within
10 the 21-day objection period, the director may approve the work task. Regardless of
11 whether valid objections are received, the director **must**~~may~~ make a determination of
12 whether the work task final decision complies with the statewide planning goals and
13 applicable statutes and administrative rules.

14 ~~[(5) When a subsequent work task conflicts with a work task that has been deemed~~
15 ~~acknowledged, or violates a statewide planning goal, applicable statute or administrative~~
16 ~~rule related to a previous work task, the director or commission shall not approve the~~
17 ~~submittal until all conflicts and compliance issues are resolved. In such case, the director~~
18 ~~or commission may enter an order deferring acknowledgment of all, or part, of the work~~
19 ~~task until completion of additional tasks.]~~

20 (6) If valid objections are received or the department conducts its own review, the
21 department must issue a report. The report shall address the issues raised in valid
22 objections. The report shall identify specific work tasks to resolve valid objections or
23 department concerns. A valid objection shall either be sustained or rejected by the
24 department or commission based on the **local record, and applicable** statewide planning
25 goals, ~~or applicable~~ statutes or administrative rules.

26 Stat. Auth.: ORS 197.040 & 197.633

27 Stats. Implemented: ORS 197.628 - 197.646

28 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
29 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
30 cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

31 **660-025-0150**

32 **Director Action and Appeal of Director Action (Work Task Phase)**

33

34 **(1) In response to a completed work task submitted to the department for review in**
35 **accordance with OAR 660-025-0140, t[he] director may:**

36 (a) Issue an order approving the completed work task;

- 1 (b) Issue an order remanding the work task to the local government including a date for
2 resubmittal;
- 3 (c) Refer the work task to the commission for review and action; or
- 4 (d) The director may issue an order approving portions of the completed work task
5 provided these portions are not affected by an order remanding or referring the completed
6 work task.
- 7 (2) The director must send the order to the local government, persons who filed
8 objections and persons who, in writing, requested a copy of the action.
- 9 (3) **The director shall take action on, and** the order or referral must be sent, [~~within~~
10 **not later than** 120 days of the date the department received the task submittal from the
11 local government, unless the local government waives the 120-day deadline or the
12 commission grants the director an extension. The local government may withdraw the
13 submittal, in which case the 120-day deadline does not apply, provided the withdrawal
14 will not result in the local government passing the deadline for work task submittal in the
15 work program and any extension allowed in OAR 660-025-0130(6).
- 16 (4) If the director does not issue an order or refer the work task within the time limits set
17 by section (3) of this rule, and the department did not receive any valid objections to the
18 work task, the work task shall be deemed approved. In such cases, the department will
19 provide a letter to the local government certifying that the work task is approved.
- 20 (5) If the department received one or more valid objections to the work task, the director
21 must either issue an order or refer the work task to the commission for review.
- 22 (6) Appeals of a director's decision are subject to the following requirements:
- 23 (a) A director's decision approving or partially approving a work task may be appealed to
24 the commission only by a person who filed a valid objection.
- 25 (b) A director's decision remanding or partially remanding a work task may be appealed
26 to the commission only by the local government, a person who filed a valid objection, or
27 by another person who participated orally or in writing in the local proceedings leading to
28 adoption of the local decision under review.
- 29 (c) Appeals of a director's decision must be filed with the department's Salem office
30 within 21 days of the date the director's action was mailed;
- 31 (d) A person, other than the local government that submitted the work task and an
32 affected local government, appealing the director's decision must:
- 33 (A) Show that the person participated in the local proceedings leading to adoption of the
34 work task orally or in writing;

1 (B) Clearly identify a deficiency in the work task sufficiently to identify the relevant
2 section of the submitted task and the statute, goal, or administrative rule the local
3 government is alleged to have violated; and

4 (C) Suggest a specific modification to the work task necessary to resolve the alleged
5 deficiency.

6 (7) If no appeal to the commission is filed within the time provided by section (6) of this
7 rule, the director's order is deemed affirmed by the commission. If the order approved a
8 work task, the work task is deemed acknowledged.

9 **(8) When a subsequent work task conflicts with a work task that has been deemed**
10 **acknowledged, or violates a statewide planning goal, applicable statute or**
11 **administrative rule related to a previous work task, the director or commission shall**
12 **not approve the submittal until all conflicts and compliance issues are resolved. In**
13 **such case, the director or commission may enter an order deferring**
14 **acknowledgment of all, or part, of the work task until completion of additional**
15 **tasks.**

16 **(9) The director's standard of review is the same as the standard that governs the**
17 **commission expressed in OAR 660-025-0160(2).**

18 Stat. Auth.: ORS 197.040 & 197.633

19 Stats. Implemented: ORS 197.628 - 197.646

20 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
21 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
22 cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

23 **660-025-0160**

24 **Commission Review of Referrals and Appeals (Work Task Phase)**

25 (1) The commission shall hear appeals and referrals of work tasks according to the
26 applicable procedures in OAR 660-025-0085 and 660-025-0150.

27 **(2) The commission's standard of review, as provided in ORS 197.633(3), is:**

28 **(a) For evidentiary issues, whether there is substantial evidence in the record as a**
29 **whole to support the local government's decision.**

30 **(b) For procedural issues, whether the local government failed to follow the**
31 **procedures applicable to the matter before the local government in a manner that**
32 **prejudiced the substantial rights of a party to the proceeding.**

33 **(c) For issues concerning compliance with applicable laws, whether the local**
34 **government's decision on the whole complies with applicable statutes, statewide**
35 **land use planning goals, administrative rules, the comprehensive plan, the regional**

1 **framework plan, the functional plan and land use regulations. The commission shall**
2 **defer to a local government’s interpretation of the comprehensive plan or land use**
3 **regulations in the manner provided in ORS 197.829. For purposes of this subsection,**
4 **“complies” has the meaning given the term “compliance” in the phrase “compliance**
5 **with the goals” in ORS 197.747.**

6 ([2]3) In response to a referral or appeal, the director may prepare and submit a report to
7 the commission.

8 ([3]4) The department must mail a copy of the report to the local government, all persons
9 who submitted objections, and other persons who appealed the director's decision. The
10 department must mail the report at least 21 days before the commission meeting to
11 consider the referral or appeal.

12 ([4]5) The persons specified in OAR 660-025-0085(5)(c) may file written exceptions to
13 the director's report within [~~ten-~~10] days of the date the report is mailed. **Objectors**
14 **may refer to or append to their exceptions any document from the local record,**
15 **whether or not the local government submitted it to the department under OAR**
16 **660-025-0130.** The director may issue a response to exceptions and may make revisions
17 to the director's report in response to exceptions. **The department may provide the**
18 **commission a** [A] response or revised report [~~may be provided to the commission~~] at or
19 prior to its hearing on the referral or appeal. A revised director's report does not require
20 mailing 21 days prior to the commission hearing.

21 ([5]6) The commission shall hear appeals based on the **local** record. [~~except as provided~~
22 ~~in OAR 660-025-0085(5)(g).~~] The written record shall consist of the submittal, timely
23 objections, the director's report, timely exceptions to the director's report, the director's
24 response to exceptions and revised report if any, and the appeal if one was filed.

25 ([6]7) Following its hearing, the commission must issue an order that does one or more of
26 the following:

27 (a) Approves the work task or a portion of the task;

28 (b) Remands the work task or a portion of the task to the local government, including a
29 date for resubmittal;

30 (c) Requires specific plan or land use regulation revisions to be completed by a specific
31 date. Where specific revisions are required, the order shall specify that no further review
32 is necessary. These changes are final when adopted by the local government. The failure
33 to adopt the required revisions by the date established in the order shall constitute failure
34 to complete a work task by the specified deadline requiring the director to initiate a
35 hearing before the commission according to the procedures in OAR 660-025-0170(3);

36 (d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b);
37 or

1 (e) Modifies the schedule for the approved work program in order to accommodate
2 additional work on a remanded work task.

3 (~~7~~8) If the commission approves the work task or portion of a work task under subsection
4 (~~6~~7)(a) of this rule and no appeal to the Court of Appeals is filed within the time
5 provided in ORS 183.482, the work task or portion of a work task shall be deemed
6 acknowledged. If the commission decision on a work task is under subsection (~~6~~7)(b)
7 through (e) of this rule and no appeal to the Court of Appeals is filed within the time
8 provided in ORS 183.482, the decision is final.

9 Stat. Auth.: ORS 197.040 & 197.633

10 Stats. Implemented: ORS 197.628 - 197.646

11 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
12 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
13 cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

14 **660-025-0170**

15 **Modification of an Approved Work Program, Extensions, and Sanctions for Failure**
16 **to Meet Deadlines**

17 (1) The commission may direct, or, upon request of the local government, the director
18 may authorize, a local government to modify an approved work program when:

19 (a) Issues of regional or statewide significance arising out of another local government's
20 periodic review requires an enhanced level of coordination;

21 (b) Issues of goal compliance are raised as a result of completion of a work task resulting
22 in a need to undertake further review or revisions;

23 (c) Issues relating to the organization of the work program, coordination with affected
24 agencies or persons, or orderly implementation of work tasks result in a need for further
25 review or revision; or

26 (d) Issues relating to needed housing, economic development, transportation, public
27 facilities and services, or urbanization were omitted from the work program but must be
28 addressed in order to ensure compliance with the statewide planning goals.

29 (2) Failure to complete a modified work task shall constitute failure to complete a work
30 task by the specified deadline, requiring the director to initiate a hearing before the
31 commission according to the procedures in section (3).

32 (3) If a local government fails to submit its evaluation and work program, a decision that
33 no work program is necessary, or a work task by the deadline set by the director or the
34 commission, including any extension, the director shall schedule a hearing before the
35 commission. The notice must state the date and location at which the commission will

1 conduct the hearing. The hearing will be conducted pursuant to OAR 660-025-0085 and
2 as follows:

3 (a) The director shall notify the local government in writing that its submittal is past due
4 and that the commission will conduct a hearing and consider imposing sanctions against
5 the local government as required by ORS 197.636(2);

6 (b) The director and the local government may prepare written statements to the
7 commission addressing the circumstances causing the local government to miss the
8 deadline and the appropriateness of any of the sanctions listed in ORS 197.636(2). The
9 written statements must be filed in a manner and according to a schedule established by
10 the director;

11 (c) The commission shall issue an order imposing one or more of the sanctions listed in
12 ORS 197.636(2) until the local government submits its evaluation and work program or
13 its decision that no work program is required, or its work task required under OAR 660-
14 025-0130, as follows:

15 (A) Require the local government to apply those portions of the goals and rules to land
16 use decisions as specified in an order issued by the commission,

17 (B) Forfeiture of all or a portion of the grant money received to conduct the review,
18 develop the work program or complete the work task,

19 (C) Completion of the work program or work task by the department. The commission
20 may require the local government to pay the cost for completion of work performed by
21 the department, following the withholding process set forth in ORS 197.335(4),

22 (D) Application of such interim measures as the commission deems necessary to ensure
23 compliance with the statewide planning goals.

24 Stat. Auth.: ORS 197.040 & 197.633

25 Stats. Implemented: ORS 197.628 - 197.646

26 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
27 1-1998, f. & cert. ef. 4-15-98; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. &
28 cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

29 **660-025-0175**

30 **Review of UGB Amendments and Urban Reserve Area Designations**

31 (1) **A local government must submit the following final [E]**and use decisions
32 [~~establishing or amending an urban growth boundary or urban reserve area must be~~
33 ~~submitted~~] to the department for review for compliance with the applicable statewide
34 planning goals, statutes and rules **in the manner provided for review of a work task**
35 **under ORS 197.633**[~~when~~]:

1 ~~[(a) A metropolitan service district amends its urban growth boundary to include more~~
2 ~~than 100 acres;~~

3 ~~(b) A city with a population of 2,500 or more within its urban growth boundary amends~~
4 ~~the urban growth boundary to include more than 50 acres; or~~

5 ~~(c) A city or metropolitan service district designates or amends urban reserve areas under~~
6 ~~ORS 195.145.]~~

7 **(a) An amendment of an urban growth boundary by a metropolitan service district**
8 **that adds more than 100 acres to the area within its urban growth boundary;**

9 **(b) An amendment of an urban growth boundary by a city with a population of**
10 **2,500 or more within its urban growth boundary that adds more than 50 acres to the**
11 **area within the urban growth boundary;**

12 **(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a**
13 **metropolitan service district or by a city with a population of 2,500 or more within**
14 **its urban growth boundary;**

15 **(d) An amendment of the boundary of an urban reserve by a metropolitan service**
16 **district;**

17 **(e) An amendment of the boundary of an urban reserve to add more than 50 acres**
18 **to the urban reserve by a city with a population of 2,500 or more within its urban**
19 **growth boundary; and**

20 **(f) A designation or an amendment to the designation of a rural reserve under**
21 **ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service**
22 **district, including an amendment of the boundary of a rural reserve.**

23 (2) The standards and procedures in this rule govern the local government process and
24 submittal, and department and commission review.

25 (3) The local government must provide notice of the proposed amendment according to
26 the procedures and requirements for post-acknowledgement plan amendments in ORS
27 197.610 and OAR 660-018-0020.

28 (4) The local government must submit its final decision amending its urban growth
29 boundary, or designating urban reserve areas, to the department according to all the
30 requirements for a work task submittal in OAR 660-025-0130 and 660-025-0140.

31 (5) Department and commission review and decision on the submittal from the local
32 government must follow the procedures and requirements for review and decision of a
33 work task submittal in OAR 660-025-0085, and 660-025-0140 to 660-025-0160.

1 Stat. Auth.: ORS 197.040
2 Stats. Implemented: ORS 195.145, 197.626 - 197.646
3 Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD
4 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

5 **660-025-0180**
6 **Stay Provisions**

7 (1) When a local government makes a final decision on a work task or portion of a work
8 task that is required by, or carries out, an approved work program, or if the local
9 government **is required to submit a final decision to the department under OAR 660-**
10 **025-0175(1)**~~[is a city with a population of 2,500 or more and either adopts a decision~~
11 ~~adding more than 50 acres to its urban growth boundary or designates or amends urban~~
12 ~~reserve areas, or a metropolitan service district that adopts a decision adding more than~~
13 ~~100 acres to its urban growth boundary or designates or amends urban reserve areas],~~
14 interested persons may request a stay of the local government's final decision by filing a
15 request for a stay with the commission. In taking an action on a request to stay a local
16 government's final decision on a work task, the commission must use the standards and
17 procedures contained in OAR chapter 660, division 1.

18 (2) The director may grant a temporary stay of a final decision on a local government
19 decision described in section (1) of this rule. A temporary stay must meet applicable stay
20 requirements of the Administrative Procedures Act. A temporary stay issued by the
21 director shall only be effective until the commission has acted on a stay request pursuant
22 to section (1) of this rule.

23 Stat. Auth.: ORS 197.040 **& 197.633**
24 Stats. Implemented: ORS 197.628 - 197.646
25 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD
26 4-2006, f. & cert. ef. 5-15-06

27 **660-025-0210**
28 **Updated Planning Documents**

29 (1) Pursuant to ORS 195.025 and 195.040 and the legislative policy described in ORS
30 197.010 **and 197.633**, each local government must file ~~[two]~~ **a** complete and accurate
31 copy~~[ies]~~ of its comprehensive plan and land use regulations bearing the date of adoption
32 (including plan and zone maps bearing the date of adoption) with the department
33 following completion of periodic review. These materials may be either a new printing or
34 an up-to-date compilation of the required materials, **and must include data described in**
35 **OAR 660-018-0040(4), if applicable.** ~~[or upon approval of the department, an up-to-date~~
36 ~~copy on computer disk(s) or other electronic format.]~~

37 **(2) For local governments that produce geospatial data describing an urban growth**
38 **boundary (UGB) or urban or rural reserve that is created or altered under a**
39 **completed work task following completion of periodic review, the submission must**
40 **include electronic geospatial data depicting the boundary change. Local**

1 **governments that create or alter zoning or comprehensive plan maps as geospatial**
2 **data are encouraged but not required to share this data with the department.**
3 **Geospatial data submitted to the department must comply with the following**
4 **standards endorsed by the Oregon Geographic Information Council:**

5 **(a) The data must be in an electronic format compatible with the State’s Geographic**
6 **Information System software standard described in OAR 125-600-7550; and**

7 **(b) The data must be accompanied by metadata that meets at least the minimum**
8 **requirements of the federal Content Standard for Digital Geospatial Metadata.**

9 (3[2]) Materials described in sections (1) **and (2)** of this rule must be submitted to the
10 department within six months of completion of the last work task.

11 (4[3]) The updated plan must be accompanied by a statement signed by a city or county
12 official certifying that the materials are an accurate copy of current planning documents
13 and that they reflect **the** changes made as part of periodic review.

14 (5[4]) Jurisdictions that do not file an updated plan on time shall not be eligible for
15 **periodic review** grants from the department until such time as the required materials are
16 provided to the department.

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

18 Stats. Implemented: ORS 197.190, 197.270 & 197.628 - 197.646

19 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
20 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2011, f. & cert. ef. 10-19-11

21 **660-025-0220**

22 **Computation of Time**

23 (1) For the purposes of OAR chapter 660, division 25, periodic review rule, unless
24 otherwise provided by rule, the time to complete required tasks, notices, objections, and
25 appeals shall be computed as follows. The first day of the designated period to complete
26 the task, notice, objection or appeal shall not be counted. The last day of the period shall
27 be counted unless it is a Saturday, Sunday or legal holiday recognized by the State of
28 Oregon. In that event the period shall run until the end of the next day that is not a
29 Saturday, Sunday or state legal holiday.

30 (2) When the period of time to complete the task is less than seven (7) days, intervening
31 Saturdays, Sundays or state legal holidays shall not be counted.

32 Stat. Auth.: ORS 197.040

33 Stats. Implemented: ORS **174.120**, 187.010, 187.020, 197.628 - 197.650

34 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD
35 4-2006, f. & cert. ef. 5-15-06

36

1 **660-025-0230**

2 **Applicability**

3 (1) **Except as otherwise required by law,** [A]amendments to this division apply as
4 follows:

5 (a) Local governments in periodic review that have not submitted an evaluation and work
6 program, or decision that no work program is required, must apply the amendments to the
7 evaluation and work program or decision that no work program is required;

8 (b) Local governments in periodic review must apply amendments to work tasks not
9 completed or submitted to the department on the effective date of the amendments;

10 (c) The commission may modify approved work programs to carry out the priorities and
11 standards reflected in amendments;

12 (d) The procedures and standards in amendments for department and commission review
13 and action on periodic review submittals, requests for extensions, and late submittals
14 apply to all such submittals and requests filed **with the department** after the effective
15 date of the amendments, as well as any such submittals and requests awaiting initial
16 department action on the effective date of the amendments.

17 Stat. Auth.: ORS 197.040-197.245

18 Stats. Implemented: ORS 197.628 - 197.646

19 Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD
20 1-2011, f. & cert. ef. 10-19-11

21 **660-025-0250**

22 **Transfer of Matters to the Land Use Board of Appeals**

23 (1) [~~When the department receives an appeal of a director's decision pursuant to OAR~~
24 ~~660-025-0150(4), †]~~ **The director may elect to transfer a matter [raised in the appeal] to**
25 **the Land Use Board of Appeals (board) under ORS 197.825(2)(c)(A), including but not**
26 **limited to an appeal of the director's decision pursuant to OAR 660-025-0150(6).**

27 (2) Matters [~~raised in an appeal~~] may be transferred by the director to the board when:

28 (a) The matter is an urban growth boundary expansion approved by the local government
29 based on a quasi-judicial land use application and does not require an interpretation of
30 first impression of statewide planning Goal 14, ORS 197.296 or 197.298; or

31 (b)(A) The matter [~~alleges the work task submittal violates~~] **concerns** a provision of law
32 not directly related to compliance with a statewide planning goal;

1 (B) The ~~[appeal]~~ **matter is an appeal of the director's decision and concerns a** clearly
2 identified~~[s-the]~~ provision of the **work** task submittal that is alleged to violate a provision
3 of law and clearly identifies the provision of law that is alleged to have been violated; and

4 (C) The matter is sufficiently well-defined **such** that it can be separated from other
5 ~~[allegations in the appeal]~~ **issues in the work task that are not transferred to the**
6 **board.**

7 (3) When the director elects to transfer a matter to the board **concerning an appeal of**
8 **the director's decision pursuant to OAR 660-025-0150(4),** notice of the decision must
9 be sent to the local jurisdiction, the appellant, objectors, and the board within 60 days of
10 the date the appeal was filed with the department. The notice shall include identification
11 of the matter to be transferred and explanation of the procedures and deadline for appeal
12 of the matter to the board.

13 (4) The director's decision under this rule is final and may not be appealed.

14 Stat. Auth.: ORS 197.040

15 Stats. Implemented: ORS 197.825

16 Hist.: LCDD 4-2006, f. & cert. ef. 5-15-06