

**18.7 Goal 14 – Urbanization/ Goal 14 Rule – Exceptions to.** In the context of a reasons exception to allow a data center use on agricultural land, while a local government cannot judge whether a property has a service-based locational advantage without a complete understanding of the extent of services in the alternative locations, the absence of an inventory of existing infrastructure in the record does not undermine the decision-maker’s conclusion that the exception area provides a “significant comparative advantage,” for purposes of OAR 660-004-0022(3)(c), where alternative sites were not rejected based upon the unavailability of services. *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

**18.7 Goal 14 – Urbanization/ Goal 14 Rule – Exceptions to.** Speculation that a reasons exception to allow an industrial use on agricultural land will hasten future zone change applications does not establish that the exception will not “cause only minimal loss of reproductive resource lands” for purposes of OAR 660-004-0022(3)(c); however, the fact that that an equal amount of land elsewhere in the jurisdiction will be rezoned from industrial to agricultural does not demonstrate that that criterion is met where the findings do not discuss the quality or productivity of the resource lands in the proposed exception area or otherwise attempt to describe, in qualitative terms, what removing the agricultural zoning of the proposed exception area means for resource land productivity. *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

**18.7 Goal 14 – Urbanization/ Goal 14 Rule – Exceptions to.** In the context of a reasons exception to allow a data center use on agricultural land, that a site is under contract or currently used for the disposal of wastewater; that a site is in federal ownership and that its ownership transfer timeline is unknown; that much of a site is covered in wetlands and that removal and fill of the wetlands will increase risk and will increase costs in an amount in the tens of thousands of dollars; that a site is too close to other existing or planned data centers to avoid general, undefined issues of facility proximity and interdependence; and that a site is inconsistent with the applicant’s objective of ultimately extending services to a particular property do not necessarily establish that those sites “cannot reasonable accommodate the use” for purposes of OAR 660-004-0020(2)(b). *1000 Friends of Oregon v. Morrow County*, 81 Or LUBA 508 (2020).

**18.7 Goal 14 – Urbanization – Exceptions to.** Only “transportation facilities and improvements” that meet the requirements of OAR 660-012-0065 are allowed on EFU-zoned “rural land” without an exception to Goals 3, 11 and 14. OAR 660-012-0070 provides that “transportation facilities” that do not meet the requirements of OAR 660-012-0065 cannot be constructed on “rural land” without an exception to the applicable goals. However, OAR 660-012-0070 does not require an exception to the applicable resource and urban goals where the city concurrently includes the land within its urban growth boundary, because the land is no longer “rural land” as defined in that rule. *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**18.7 Goal 14 – Urbanization – Exceptions to.** *VinCEP v. Yamhill County*, 215 Or App 414, 171 P3d 368 (2007), which involved a reasons exception to Goals 3, 4 and 14 to develop a hotel on land zoned exclusive farm use (EFU), and its holding which interprets the rules for reasons exceptions, is inapposite where no reasons exception is involved. Similarly, OAR 661-012-0070 and its requirements for exceptions for transportation improvements on rural land do not apply where no exception to a resource goal is sought. *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**18.7 Goal 14 – Urbanization – Exceptions to.** In adopting an exception to Goal 14 based on commitment to urban levels of development, a county must do more than address all the factors set out at OAR 660-014-0030(3) and adopt findings of fact. OAR 660-014-0030(4) requires “a statement of reason explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.” Where that explanation for why the facts the county found support a conclusion that the property is committed to urban use is entirely missing, LUBA will sustain the challenge to the Goal 14 exception. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 156 (2016).

**18.7 Goal 14 – Urbanization – Exceptions to.** It is inconsistent to approve a committed exception to Goal 14 to allow urban uses of the property (because all rural uses are impracticable) and then apply a zoning district that was adopted to limit industrial uses to rural industrial uses. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 156 (2016).

**18.7 Goal 14 – Urbanization – Exceptions to.** LUBA will not affirm a hearings officer’s decision based on a legal theory that application of a rural industrial zone to rural property does not require an exception to Goal 14, where the hearings officer did not adopt that theory and instead approved an exception to Goal 14 to apply the rural industrial zone. *Central Oregon Landwatch v. Deschutes County*, 74 Or LUBA 156 (2016).

**18.7 Goal 14 – Urbanization – Exceptions to.** The statewide planning goal exception standards are set out at ORS 197.732 (statutory standard); Goal 2, Part II (goal standard); OAR chapter 660, division 4 (general administrative rule standard); OAR 660-012-0070 (transportation improvements on rural land); and OAR chapter 660, division 14 (urban development of rural land). Those different exception standards vary somewhat in their wording and level of detail, and where a Goal 14 exception is required to allow residential development on rural land, OAR 660-014-0040 is the more particular standard and the exception standard that applies to such Goal 14 exceptions. *VinCEP v. Yamhill County*, 215 Or App 414, 422-23, 171 P3d 368 (2007). *Columbia Riverkeeper v. Clatsop County*, 61 Or LUBA 240 (2010).

**18.7 Goal 14 – Urbanization – Exceptions to.** A net reduction in potential development density on rural land could be a sufficient reason under OAR 660-014-0040(2) to allow existing rural residential zoning to be relocated and reduced in size. *Columbia Riverkeeper v. Clatsop County*, 61 Or LUBA 240 (2010).

**18.7 Goal 14 – Urbanization – Exceptions to.** The proximity of an RV camp/campground to an urban growth boundary, the proposed density of campground spaces, and the provision of utilities to individual camp sites temporarily occupied by RVs are not sufficient, in themselves, to convert a rural campground to an “urban use” requiring an exception to Goal 14. *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

**18.7 Goal 14 – Urbanization – Exceptions to.** The standards for approving a destination resort under Goal 8 and ORS 197.435 through 197.467 function as a “safe harbor” that allows local governments to approve resorts that meet minimum standards, without the necessity of adopting exceptions to Goals 11 and 14. However, the statutory process is not the only means of approving

a destination resort, and counties continue to have the option of approving a destination resort subject to exceptions to Goals 3, 4, 11 and 14. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

**18.7 Goal 14 – Urbanization – Exceptions to.** A county may rely on the reasons that justified a Goal 4 exception earlier approved by the county and Land Conservation and Development Commission (LCDC) for a proposed destination resort to justify reasons exceptions to Goals 11 and 14, where the record supports the county’s finding that the Goal 4 reasons are still valid and the Goals 11 and 14 exceptions merely implement and complete the earlier county and LCDC approval. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

**18.7 Goal 14 – Urbanization – Exceptions to.** Because Goal 11 and Goal 14 serve congruent policy objectives, the reasons sufficient to justify a Goal 14 exception for a destination resort may also be sufficient to justify an exception to Goal 11 to authorize a community sewer system to serve the destination resort. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where the county and the Land Conservation and Development Commission previously approved a Goal 4 exception for a destination resort under conditions requiring specified on-site accommodations and facilities, and the county imposed an overlay zone to ensure that the resort includes those on-site accommodations and facilities, in later adopting a reasons exception to Goal 14 to complete the proposed resort the county can consider those required accommodations and facilities to be essential characteristics of the proposed use, for purposes of the alternative sites analysis required under OAR 660-014-0040(3)(a). In that circumstance, the county does not err in concluding that alternative sites within urban growth boundaries cannot reasonably accommodate the proposed use. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where Goal 11 and 14 exceptions are necessary to complete a previously approved destination resort that is authorized under the county’s acknowledged comprehensive plan and land use regulations, and the resort as completed is substantially similar to the resort as originally approved, the Goal 11 and 14 exceptions do not propose “new uses” that could be conflicting uses with a significant Goal 5 resource site and thus the county does not err in failing to apply the requirements of Goal 5 and the Goal 5 rule. *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009).

**18.7 Goal 14 – Urbanization – Exceptions to.** Viewing the factors set forth in *1000 Friends of Oregon v. LCDC (Curry Co.)*, 301 Or 447, 724 P2d 268 (1986), together, a proposed use of land for an RV Park is an urban use of rural land that is prohibited without an exception to Goal 14. *Oregon Shores Conservation Coalition v. Coos County*, 55 Or LUBA 545 (2008).

**18.7 Goal 14 – Urbanization – Exceptions to.** OAR 660-004-0040(6) requires that a local government ensure that amendments to its rural residential zones to authorize lots as small as two acres are justified with exceptions to Goal 14. However, when a local government does so, OAR 660-004-0040(6) does not apply to unamended portions of the local government’s comprehensive plan and land use regulations. *Oregon Shores Cons. Coalition v. Curry County*, 53 Or LUBA 503 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** OAR 660-004-0040(3)(b) requires that when a local government “amends its plan’s provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.” However, when a local government does so, OAR 660-004-0040 does not apply to unamended portions of the local government’s comprehensive plan and land use regulations. *Oregon Shores Cons. Coalition v. Curry County*, 53 Or LUBA 503 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** A 50-unit deluxe “wine country” hotel that is intended to attract customers from urban areas is “urban development” for purposes of adopting a reasons exception to Goal 14 under OAR 660-014-0040. That the rural setting of the hotel is part of its commercial appeal does not mean the hotel is rural development. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Because the provisions OAR 660-004 govern the exception process as it applies to statewide planning goals “except as provided for” in OAR 660-014, it is reasonably clear that the Land Conservation and Development Commission intends that a reasons exception for proposed urban development be evaluated under OAR 660-014, not OAR 660-004. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Given the strong family resemblance between the various rules that interpret and apply Goal 2, Part II and ORS 197.732 in different contexts, any cases interpreting OAR 660-004-0022, the goal or the statute are at least potentially helpful in interpreting OAR 660-014-0040(2), or in evaluating a reasons exception under that rule. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where a local government proceeds to justify an exception under reasons listed in OAR 660-014-0040(2) or OAR 660-004-0022, the decision must demonstrate that each of the elements set out in the listed reason is met. That the listed reasons are not exclusive does not mean that an exception is permissible in circumstances where only some of the elements for each listed reason are met. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** In adopting a reasons exception to allow urban development on rural land under OAR 660-014-0040(2), a local government must justify any “essential characteristic” of the proposed development, where those characteristics have the effect of eliminating the need to consider alternative locations to site the proposed urban development within urban growth boundaries under OAR 660-014-0040(3). *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where a local government justifies a 12-acre exception area for proposed urban development under OAR 660-014-0040, the local government cannot evaluate alternative sites under OAR 660-014-0040(3) based on a minimum 33-acre parcel size. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Under OAR 660-014-0040, a local government may not treat as an “essential characteristic” of a proposed wine country hotel a location that is

proximate to the densest concentration of wineries, absent evidence that locations near lesser but still significant concentrations of wineries cannot reasonably accommodate the proposed need for the hotel. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Not every feature, such as “rural ambiance,” that would increase the odds of economic success of a proposed urban hotel on rural lands is an essential characteristic of the use, that can be used to categorically reject otherwise suitable alternative sites within or adjacent to urban areas under OAR 660-014-0040(2) and (3). *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** A mere consumer preference among wine connoisseurs for luxury hotels in rural settings is not a sufficient basis to render a rural setting an essential characteristic of a hotel designed to accommodate affluent wine tourists, for purposes of OAR 660-014-0040, absent evidence that there is an economically significant demographic of wine tourist that will only stay in rural luxury hotels and will not stay in urban luxury hotels. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** A county does not err in rejecting an argument that a reasons exception is not available to allow a proposed hotel on rural land, because the proposed development is in essence a destination resort, and therefore potentially allowable without an exception, under the reasoning in *DLCD v. Yamhill County*, 183 Or App 556, 53 P3d 462 (2002), where the applicable goals, rules and statutes effectively prohibit a destination resort of any kind on the subject property, and thus there is no means short of a goal exception to approve the proposed use on the property. *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where a previously adopted exception to Goal 14 establishes a two-acre minimum lot size for a specific parcel, a county does not err in later rezoning that parcel to allow subdivision and residential development of that parcel with a minimum lot size of two acres without taking an exception to Goal 14 or adopting findings to establish that the development that would be allowed under that new zoning would constitute rural rather than urban development. It does not matter that the parcel was located outside the Goal 14 exception area where the prior Goal 14 exception clearly identified the parcel and clearly authorized a two-acre minimum lot size for that parcel. *Holloway v. Clatsop County*, 52 Or LUBA 644 (2006).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where a proposed plan amendment, zone change and goal exception would result in a split-zoned parcel with the northern portion planned and zoned for residential use and the southern portion planned and zoned for resource use, and a policy in the county’s comprehensive plan at least arguably permits land divisions along boundaries separating exception areas from resource lands, and such a division would result in lots smaller than the minimum lot size permitted by the county’s acknowledged Goal 14 exception, the county must adopt Goal 14 findings or, if necessary, adopt a specific exception to Goal 14. *Wetherell v. Douglas County*, 51 Or LUBA 730 (2006).

**18.7 Goal 14 – Urbanization – Exceptions to.** OAR 660-004-0030(7) authorizes a county to adopt an exception to Goal 14 for rural residential zone or planning designations in a legislative proceeding, and to subsequently apply such zones or plan designations to specific properties

without the necessity of applying or taking an exception to Goal 14. *Wetherell v. Douglas County*, 50 Or LUBA 167 (2005).

**18.7 Goal 14 – Urbanization – Exceptions to.** In adopting a committed exception to Goal 14, a county does not err in assuming that residential properties less than 2 acres constitute “urban levels of development,” to support its conclusion that all rural uses on the subject property are impractical. *Doob v. Josephine County*, 49 Or LUBA 113 (2005).

**18.7 Goal 14 – Urbanization – Exceptions to.** When a local government demonstrates that land may be included in an urban growth boundary under OAR 660-004-0010(1)(c)(B)(i) by demonstrating compliance with the seven factors of Goal 14, the local government need not take exceptions to other goals individually. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

**18.7 Goal 14 – Urbanization – Exceptions to.** Although OAR 661-004-0010(1)(c)(B)(i) nominally requires a local government to apply all seven of the Goal 14 factors, when the local government is proceeding under the “unneeded but committed” exception, the two “need” factors of Goal 14 need not be addressed. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

**18.7 Goal 14 – Urbanization – Exceptions to.** When a local government amends its urban growth boundary under the “unneeded but committed” exception it demonstrates that the land is committed to urban uses under the five “locational factors” of Goal 14. The local government need not adopt an irrevocably committed exception under OAR 660-004-0028. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

**18.7 Goal 14 – Urbanization – Exceptions to.** Even when the Goal 14 rule on rural residential development at OAR 660-004-0040 does not apply to a proposed plan or zone change for residential development on rural land, a local government must still address whether the proposed residential development is consistent with Goal 14. *Friends of Yamhill County v. Yamhill County*, 41 Or LUBA 247 (2002).

**18.7 Goal 14 – Urbanization – Exceptions to.** A finding that property is “not ideal” for rural residential use under current zoning is not sufficient to demonstrate that it is “impracticable” to use the property for such rural residential use, where a rural residence exists on the property and the decision does not explain why proximity to the interstate highway or other abutting uses make continued rural residential use impracticable. *James v. Josephine County*, 35 Or LUBA 493 (1999).

**18.7 Goal 14 – Urbanization – Exceptions to.** Where a local government decision does not incorporate a new city but erroneously applies LCDC’s rules concerning incorporation of new cities in the course of taking an exception to Goal 14, the error is harmless and provides no basis for reversal or remand. *James v. Josephine County*, 35 Or LUBA 493 (1999).

**18.7 Goal 14 – Urbanization – Exceptions to.** An exception to Goal 14 is not required where the local government imposes a zoning overlay that limits the subject property to rural uses. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

**18.7 Goal 14 – Urbanization – Exceptions to.** When a change in the type or intensity of an existing use is proposed for an exception area, the county must (1) make findings showing either that Goal 14 does not apply or the proposal complies with an existing Goal 14 exception; or (2) take a new Goal 14 exception. *Leathers v. Marion County*, 31 Or LUBA 220 (1996).

**18.7 Goal 14 – Urbanization – Exceptions to.** By definition, all land outside an acknowledged UGB and not the subject of an exception to Goal 14 is “rural” land. When amending its acknowledged comprehensive plan and zone designations for such land, a local government must demonstrate that the new plan and zone designations comply with Goal 14 or adopt an exception to Goal 14. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).