



Oregon

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November 7, 2013

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director
Tom Hogue, Economic Development Specialist

SUBJECT: **Agenda Item 11, November 14–15, 2013, LCDC Meeting**

GOAL 9 BRIEFING

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

Department staff will brief the commission on the intent, requirements, and implementation issues with Statewide Planning Goal 9, “Economic Development.” This agenda item is intended to provide commission members background information on the context and substance of Goal 9, its administrative rules, relevant statutes, and court decisions. A number of recent urban growth boundary (UGB) and periodic review items before the commission have involved both policy and technical issues with Goal 9 and its administrative rules in OAR chapter 660, division 9. This briefing will not address specifically the requirements of Goal 14 and its rule, recognizing that some issues exist at the intersection of Goals 9 and 14. At least two commission decisions before the Court of Appeals involve Goal 9 issues. We expect additional complicated UGB amendments related to Goal 9 and employment land will be in front of the commission for review in 2014-2015.

B. Staff Contact Information

If you have questions about this report please contact Tom Hogue, Economic Development Specialist, at 503-934-0066 or thomas.hogue@state.or.us.

II. SUMMARY OF RECOMMENDED ACTION

No formal action by the commission is requested or recommended at this time. The intent is to give the commission an opportunity to discuss the roles of the department and commission in economic development planning outside the confines of particular plan amendments. The

commission may wish to identify specific issues or questions that it would like the department to address in further detail at a later commission meeting.

III. BACKGROUND

A. Planning Under Goal 9

Employment land planning in Oregon is guided by Statewide Planning Goal 9, “Economic Development,” and its corresponding administrative rule, OAR chapter 660, division 9. Cities are to maintain an adequate supply of suitable sites for likely employment opportunities to meet community objectives. The intent is to ensure the city has suitable locations for employment to attract jobs, and for this assessment to be based on market realities.

The employment land supply results from a series of policy choices. It is not a formula, a forecast, or an allocation. The city’s work is to explore options and assemble the facts needed to inform the policy choices. There must be findings, supported by evidence, to explain the policy choices. This means that there must be reasons or findings that create a logical path from fact through analysis to findings.

The Economic Opportunities Analysis (EOA) is the tool cities use to explore and document the information, analyses, and series of policy choices that determine the total supply of employment land for the 20-year planning period. A city uses an EOA to define the community objectives, likely opportunities, suitable sites, and adequate supply for its circumstances.

The technical analysis that informs the total land supply determination is important but it cannot be done in a vacuum. Cities must understand their economic strengths, the opportunities that go with those strengths, and the investments of resources it will take to turn vision into reality. It is also important to know what works and why, so that good decisions are more likely.

B. The Economic Opportunities Analysis

The administrative rule requires that an EOA include certain elements. These are summarized here, with division 9 rule references in brackets. The complete rule is provided in Attachment A.

1. Review the trends and basic facts (how will these affect the city?) [-0015(1)]

The rule specifies that this review of trends is the principal basis for estimating likely future industrial and other employment uses. The rule encourages but does not require an employment forecast and capture rate. In general, cities should consider:

- Site conditions, infrastructure conditions and expansion costs
- Changes in employment and workforce
- Changes in development practices and finance
- Likely opportunities of interest (retention, expansion, recruitment)

2. Identify community objectives (what and why?) [-0020(1)(a)].

While not technically part of the EOA rule, the community objectives for categories or particular types of industrial and other employment uses desired by the community drive the analysis and land supply determinations. It is included here for clarity. In general, cities should consider:

- Community history, assets and conditions
- Willingness to accommodate change, implement infrastructure finance and land management tools
- Land owner awareness, plans and preparation for development

3. Categorize the identified sites (local choice, useful, simple) [-0015(2), -0025(1)]

The identification of site types is a key decision that greatly affects the existing inventory and potential expansion area analysis. Cities typically categorize land by end-use zoning (e.g. industrial, commercial). The department usually recommends categorizing land by how the city intends to manage its supply, and then end use, such as:

- General employment land
- High-value employment land
- Unique attribute employment land

In this scheme, general employment land would be managed as usual through zoning. High-value land would be managed more jealously to protect key investments and site criteria. Unique attribute land would be for more specialized sites tied to particular locations, such as port and rail access sites.

4. Identify Suitable site criteria [-0015(2)]

A suitable site has the attributes of a site necessary for a particular industrial or other employment use to operate. OAR 660-009-0005(11) and (12). As LUBA and the Court of Appeals recently explained, “necessary” does not mean “indispensable,” but rather “those attributes that are reasonably necessary to the successful operation of particular industrial or employment uses, in the sense that they bear some important relationship to that operation.”¹ Recognizing that the interpretation was subjective and could be difficult to apply, LUBA nonetheless reasoned that site characteristics are a “tool for identifying industrial and employment sites that will be attractive to potential developers so that they will actually be developed for the intended uses, which is clearly the intent of OAR chapter 660, division 9.”² When amending a UGB, Goal 14 allows that local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. In general, suitable site criteria are established:

¹ *Friends of Yamhill County v. City of Newberg*, 240 Or App 738, 771 (2011).

² *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 5, 19 (2010), *aff'd*, 240 Or App 738 (2011). *Friends of Yamhill County v. City of Newberg*, Or App (February 16, 2011).

- Per site type category
- With land management policies required to protect special characteristics [-0025(8)]

One of the questions stemming from OAR 660-009-0015(2) concerns the phrase “*expected employment growth*.” It at least seems odd to have this language in the site type identification section. It seems to refer to an employment forecast, but as noted above, an employment forecast is optional. Several later sections of the division refer to estimating the number of sites needed.

5. Inventory of sites [-0015(3)]

Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use. The inventory sometimes becomes disputed over methodology or accuracy. The department generally recommends that cities conduct their inventory of:

- Vacant sites per site type category
- Redevelopment sites per site type category

This method eliminates *unsuitable* sites from the analysis document early in the process rather than at the end. It is worth noting that OAR 660-024-0050(1) requires that Metro conduct a site inventory according to division 9 EOA requirements. This became an issue during the last Metro UGB amendment.

6. Community economic development potential [-0015(4) and (5); -0020(1)(a)]

The EOA must estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to the previous sections of this rule and must consider the planning area’s economic advantages and disadvantages.

C. Policy Development and Accommodation of Need

Based on the analysis and conclusion in the EOA the local government is to establish policies and designate an adequate supply of suitable land consistent with plan policies. These rules are found in OAR 660-009-0020 and -0025.

While there are process requirements every city has to meet by rule, the total employment opportunities determination in rule is a policy choice determination. The rules link upwards and to improve readability, the logic is presented here in reverse order relative to how it appears in the rule. The conclusion is that the employment land supply is driven by what is desired by the community. There are implications for cities that wish to grow and for those that do not. When cities wish to expand their UGB, Goal 14 requirements come into play. These requirements are not discussed in this memo.

Division 9 consistently refers to estimates and approximations of land needed to meet plan policies and community objectives, giving cities discretion in shaping their economic futures by the policies adopted. All italics are added.

OAR 660-009-0025(2) Total Land Supply. Plans *must designate* serviceable land suitable to meet the *site needs identified in section (1)* of this rule.

OAR 660-009-0025(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to *implement plan policies*.

OAR 660-009-0025. Cities and counties *must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020*.

OAR 660-009-0020(1). Comprehensive plans subject to this division *must include policies stating the economic development objectives* for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must, among other provisions state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses *desired by the community*.

IV. POLICY ISSUES

There will be a presentation of some of the major conundrums in existing policy and rule. An annotated copy of division 9 is included in the packet to save time during the presentation. The presentation will also include an overview of successes, opportunities and an opportunity to discuss different interpretations.

Perhaps the major policy issue associated with Goal 9 is often described as “community aspiration.” Cities experiencing the difficulties of economic restructuring are motivated to take actions to improve their circumstances, including attractive upgrades to their land supply. This raises difficult issues within the land use program regarding process, cost, evidentiary basis, and reasonable limits. As alluded to above, Goal 9 does not exist in isolation, and must be addressed in the context of the other statewide planning goals (in particular Goal 14).

Another policy issue –for a future discussion – is a the issue of regional industrial lands. The commission recently adopted rules for central Oregon

The last revision to division 9 was effective January 1, 2007. At that time the commission’s intent was to revisit specific Metro issues at a later date. The commission has recently indicated that its policy agenda should include a look at specific Metro issues.

ATTACHMENT

A. OAR chapter 660, division 9 with annotations

DIVISION 9

ECONOMIC DEVELOPMENT

660-009-0000

Intent and Purpose

The intent of the Land Conservation and Development Commission is to provide an adequate land supply for economic development and employment growth in Oregon. The intent of this division is to link planning for an adequate land supply to infrastructure planning, community involvement and coordination among local governments and the state. The purpose of this division is to implement Goal 9, Economy of the State (OAR 660-015-0000(9)), and ORS 197.712(2)(a) to (d). This division responds to legislative direction to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state (ORS 197.712(1)) and to assure that comprehensive plans are based on information about state and national economic trends (ORS 197.717(2)).

Comment [TH1]: Highlights are intended to focus attention on important concepts or issues. In some cases additional commentary is provided.

Please take special note of comments marked IMPORTANT.

660-009-0005

Definitions

For purposes of this division, the definitions in ORS chapter 197 and the statewide planning goals apply, unless the context requires otherwise. In addition, the following definitions apply:

(1) "Developed Land" means non-vacant land that is likely to be redeveloped during the planning period.

Comment [TH2]: A very poorly worded definition.

(2) "Development Constraints" means factors that temporarily or permanently limit or prevent the use of land for economic development. Development constraints include, but are not limited to, wetlands, environmentally sensitive areas such as habitat, environmental contamination, slope, topography, cultural and archeological resources, infrastructure deficiencies, parcel fragmentation, or natural hazard areas.

(3) "Industrial Use" means employment activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to: manufacturing; assembly; fabrication; processing; storage; logistics; warehousing; importation; distribution and transshipment; and research and development. Industrial uses may have unique land, infrastructure, energy, and transportation requirements. Industrial uses may have external impacts on surrounding uses and may cluster in traditional or new industrial areas where they are segregated from other non-industrial activities.

(4) "Locational Factors" means market factors that affect where a particular type of industrial or other employment use will locate. Locational factors include, but are not limited to, proximity to raw materials, supplies, labor, services, markets, or educational institutions; access to

Comment [TH3]: This brings in the concept that market factors are important to identification of likely industries, not just the demonstration of current or historical activity.

transportation and freight facilities such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes; and workforce factors (e.g., skill level, education, age distribution).

(5) "Metropolitan Planning Organization (MPO)" means an organization designated by the Governor to coordinate transportation planning on urban land of the state including such designations made subsequent to the adoption of this division. The Longview-Kelso-Rainier MPO is not considered an MPO for the purposes of this division. Cities with less than 2,500 population are not considered part of an MPO for purposes of this division.

(6) "Other Employment Use" means all non-industrial employment activities including the widest range of retail, wholesale, service, non-profit, business headquarters, administrative and governmental employment activities that are accommodated in retail, office and flexible building types. Other employment uses also include employment activities of an entity or organization that serves the medical, educational, social service, recreation and security needs of the community typically in large buildings or multi-building campuses.

Comment [TH4]: Allowing retail use the same flexibility as industrial may be problematic.

(7) "Planning Area" means the area within an existing or proposed urban growth boundary. Cities and counties with urban growth management agreements must address the urban land governed by their respective plans as specified in the urban growth management agreement for the affected area.

(8) "Prime Industrial Land" means land suited for traded-sector industries as well as other industrial uses providing support to traded-sector industries. Prime industrial lands possess site characteristics that are difficult or impossible to replicate in the planning area or region. Prime industrial lands have necessary access to transportation and freight infrastructure, including, but not limited to, rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes. Traded-sector has the meaning provided in ORS 285B.280.

Comment [TH5]: No one uses this. Metro and Portland do have a similar provision. Portland works hard to defend their designated areas.

(9) "Serviceable" means the city or county has determined that public facilities and transportation facilities, as defined by OAR chapter 660, division 011 and division 012, currently have adequate capacity for development planned in the service area where the site is located or can be upgraded to have adequate capacity within the 20-year planning period.

(10) "Short-term Supply of Land" means suitable land that is ready for construction within one year of an application for a building permit or request for service extension. Engineering feasibility is sufficient to qualify land for the short-term supply of land. Funding availability is not required. "Competitive Short-term Supply" means the short-term supply of land provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses.

(11) "Site Characteristics" means the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include, but are not limited to, a minimum acreage or site configuration including shape and topography, visibility, specific types or levels of public facilities, services or energy infrastructure, or proximity to a particular transportation or

Comment [TH6]: This was the subject of a LUBA ruling in Newberg. CoA affirmed LUBA, that something less strict is intended. The LUBA ruling introduced the notion that site characteristics must be typical and meaningfully related to the use.

This issue will be before LCDC soon.

freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.

(12) "Suitable" means serviceable land designated for industrial or other employment use that provides, or can be expected to provide the appropriate site characteristics for the proposed use.

(13) "Total Land Supply" means the supply of land estimated to be adequate to accommodate industrial and other employment uses for a 20-year planning period. Total land supply includes the short-term supply of land as well as the remaining supply of lands considered suitable and serviceable for the industrial or other employment uses identified in a comprehensive plan. Total land supply includes both vacant and developed land.

(14) "Vacant Land" means a lot or parcel:

(a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or

(b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements.

Comment [TH7]: This is a visual or spatial inspection standard. It is difficult to use existing data sets to evaluate, so most EOAs use a proxy such as improvement values.

Metro is problematic.

660-009-0010

Application

(1) This division applies to comprehensive plans for areas within urban growth boundaries. This division does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Cities and counties subject to this division must adopt plan and ordinance amendments necessary to comply with this division.

(2) Comprehensive plans and land use regulations must be reviewed and amended as necessary to comply with this division as amended at the time of each periodic review of the plan pursuant to ORS 197.712(3). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-025-0050) prior to the effective date of amendments to this division must comply with such amendments at their next periodic review unless otherwise directed by the Commission.

(3) Cities and counties may rely on their existing plans to meet the requirements of this division if they conclude:

(a) There are not significant changes in economic development opportunities (e.g., a need for sites not presently provided for in the plan) based on a review of new information about national, state, regional, county and local trends; and

(b) That existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 to 660-009-0030.

(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

(5) The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.

Comment [TH8]: This part of the rule featured significantly in the recent Metro UGB decision.

(6) The amendments to this division are effective January 1, 2007. A city or county may voluntarily follow adopted amendments to this division prior to the effective date of the adopted amendments.

660-009-0015

Economic Opportunities Analysis

Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

(1) Review of National, State, Regional, County and Local Trends. The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment

Comment [TH9]: IMPORTANT.

Means that the review of trends is to identify potential uses of land, not amounts of needed land.

growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule.

(2) Identification of Required Site Types. The economic opportunities analysis must identify the number of sites **by type reasonably expected** to be needed to accommodate the **expected employment growth** based on **the site characteristics typical of expected uses**. Cities and counties are encouraged to examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.

(a) For sites inventoried under this section, plans must provide the following information:

(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and

(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.

(b) When comparing current land supply to the projected demand, cities and counties may inventory contiguous lots or parcels together that are within a discrete plan or zoning district.

(c) Cities and counties that adopt objectives or policies providing for prime industrial land pursuant to OAR 660-009-0020(6) and 660-009-0025(8) must identify and inventory any vacant or developed prime industrial land according to section (3)(a) of this rule.

(4) Assessment of Community Economic Development Potential. The economic opportunities analysis **must estimate** the types and **amounts** of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

(a) Location, size and buying power of markets;

(b) Availability of transportation facilities for access and freight mobility;

(c) Public facilities and public services;

Comment [TH10]: This is an awkward inclusion of amount in a rule about types of land.

Comment [TH11]: IMPORTANT.

Some advocates argue that this means an employment forecast is THE basis of the land need determination. It is fair to say this has driven lots of appeals. The same advocates define employment forecast beyond just an extrapolation of historical facts.

The department interprets div 9 and 24 as requiring div 9 to report out an employment projection and land need determination as OUTPUTS that are used as INPUTS to div 24.

The land need determination methodology within div 9 is highly flexible.

Comment [TH12]: Metro is required by 024-0050(1) to do this, but it is not clear how much of div 9 gets included. (e.g. vacant land definition)

Comment [TH13]: IMPORTANT.

We don't treat this as an exacting calculation but merely requiring an appropriate level of detail. Not everyone agrees.

Comment [TH14]: Here's another place that talks about estimating the amount of needed land.

- (d) Labor market factors;
- (e) Access to suppliers and utilities;
- (f) Necessary support services;
- (g) Limits on development due to federal and state environmental protection laws; and
- (h) Educational and technical training programs.

(5) Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies. Cities and counties are strongly encouraged to use the assessment of community economic development potential to form the community economic development objectives pursuant to OAR 660-009-0020(1)(a).

Comment [TH15]: Suggests a local policy discussion as the basis of the community objectives which, in turn, suggests a policy basis to the land supply determination (see below).

660-009-0020

Industrial and Other Employment Development Policies

(1) Comprehensive plans subject to this division must include policies stating the economic development objectives for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must provide the following:

(a) Community Economic Development Objectives. The plan must state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses desired by the community. Policy objectives may identify the level of short-term supply of land the planning area needs. Cities and counties are strongly encouraged to select a competitive short-term supply of land as a policy objective.

Comment [TH16]: IMPORTANT.
Suggests a policy basis to the land supply. Cities don't usually start with a determination of their short term land needs but they should. Instead, they usually attempt to justify a 20-year supply by some means, often a forecast, often dubious or at least contested.

(b) Commitment to Provide a Competitive Short-Term Supply. Cities and counties within a Metropolitan Planning Organization must adopt a policy stating that a competitive short-term supply of land as a community economic development objective for the industrial and other employment uses selected through the economic opportunities analysis pursuant to OAR 660-009-0015.

(c) Commitment to Provide Adequate Sites and Facilities. The plan must include policies committing the city or county to designate an adequate number of sites of suitable sizes, types and locations. The plan must also include policies, through public facilities planning and transportation system planning, to provide necessary public facilities and transportation facilities for the planning area.

(2) Plans for cities and counties within a Metropolitan Planning Organization or that adopt policies relating to the short-term supply of land, must include detailed strategies for preparing

the total land supply for development and for replacing the short-term supply of land as it is developed. These policies must describe dates, events or both, that trigger local review of the short-term supply of land.

(3) Plans may include policies to maintain existing categories or levels of industrial and other employment uses including maintaining downtowns or central business districts.

(4) Plan policies may emphasize the expansion of and increased productivity from existing industries and firms as a means to facilitate local economic development.

(5) Cities and counties are strongly encouraged to adopt plan policies that include brownfield redevelopment strategies for retaining land in industrial use and for qualifying them as part of the local short-term supply of land.

(6) Cities and counties are strongly encouraged to adopt plan policies pertaining to prime industrial land pursuant to OAR 660-009-0025(8).

(7) Cities and counties are strongly encouraged to adopt plan policies that include additional approaches to implement this division including, but not limited to:

- (a) Tax incentives and disincentives;
- (b) Land use controls and ordinances;
- (c) Preferential tax assessments;
- (d) Capital improvement programming;
- (e) Property acquisition techniques;
- (f) Public/private partnerships; and
- (g) Intergovernmental agreements.

660-009-0025

Designation of Lands for Industrial and Other Employment Uses

Cities and counties must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, public facility plans, and transportation system plans.

(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. Plans do not need to provide a different type of site for each industrial

Comment [TH17]: Here's another mention of the number of sites.

or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas. Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.

(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated **must at least equal** the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.

(3) **Short-Term Supply of Land**. Plans for cities and counties within a Metropolitan Planning Organization or cities and counties that adopt policies relating to the short-term supply of land must designate suitable land to respond to economic development opportunities as they arise. Cities and counties may maintain the short-term supply of land according to the strategies adopted pursuant to OAR 660-009-0020(2).

Comment [TH18]: Perhaps the intended basis of the land need determination although optional outside MPOs.

(a) Except as provided for in subsections (b) and (c), cities and counties subject to this section must provide at least 25 percent of the total land supply within the urban growth boundary designated for industrial and other employment uses as short-term supply.

(b) Affected cities and counties that are unable to achieve the target in subsection (a) above may set an alternative target based on their economic opportunities analysis.

(c) A planning area with 10 percent or more of the total land supply enrolled in Oregon's industrial site certification program pursuant to ORS 284.565 satisfies the requirements of this section.

(4) If cities and counties are required to prepare a public facility plan or transportation system plan by OAR chapter 660, division 011 or division 012, the city or county must complete subsections (a) to (c) of this section at the time of periodic review. **Requirements of this rule apply only to city and county decisions made at the time of periodic review**. Subsequent implementation of or amendments to the comprehensive plan or the public facility plan that change the supply of serviceable land are not subject to the requirements of this section. Cities and counties must:

(a) Identify serviceable industrial and other employment sites. The affected city or county in consultation with the local service provider, if applicable, must make decisions about whether a site is serviceable. Cities and counties are encouraged to develop specific criteria for deciding whether or not a site is serviceable. Cities and counties are strongly encouraged to also consider whether or not extension of facilities is reasonably likely to occur considering the size and type of uses likely to occur and the cost or distance of facility extension;

(b) Estimate the amount of serviceable industrial and other employment land likely to be needed during the planning period for the public facilities plan. Appropriate techniques for estimating land needs include but are not limited to the following:

(A) Projections or forecasts based on development trends in the area over previous years; and

(B) Deriving a proportionate share of the anticipated 20-year need specified in the comprehensive plan.

(c) Review and, if necessary, amend the comprehensive plan and the public facilities plan to maintain a short-term supply of land. Amendments to implement this requirement include but are not limited to the following:

(A) Changes to the public facilities plan to add or reschedule projects to make more land serviceable;

(B) Amendments to the comprehensive plan that redesignate additional serviceable land for industrial or other employment use; and

(C) Reconsideration of the planning area's economic development objectives and amendment of plan objectives and policies based on public facility limitations.

(d) If a city or county is unable to meet the requirements of this section, it must identify the specific steps needed to provide expanded public facilities at the earliest possible time.

(5) Institutional Uses. Cities and counties are not required to designate institutional uses on privately owned land when implementing section (2) of this rule. Cities and counties may designate land in an industrial or other employment land category to compensate for any institutional land demand that is not designated under this section.

(6) Compatibility. Cities and counties are strongly encouraged to manage encroachment and intrusion of uses incompatible with industrial and other employment uses. Strategies for managing encroachment and intrusion of incompatible uses include, but are not limited to, transition areas around uses having negative impacts on surrounding areas, design criteria, district designation, and limiting non-essential uses within districts.

Comment [TH19]: This will be an issue in a complicated UGB amendment coming soon.

(7) Availability. Cities and counties may consider land availability when designating the short-term supply of land. Available land is vacant or developed land likely to be on the market for sale or lease at prices consistent with the local real estate market. Methods for determining lack of availability include, but are not limited to:

Comment [TH20]: Very important but likely to be controversial. It was used as part of the Central Oregon Large Lot Industrial solution.

(a) Bona fide offers for purchase or purchase options in excess of real market value have been rejected in the last 24 months;

(b) A site is listed for sale at more than 150 percent of real market values;

(c) An owner has not made timely response to inquiries from local or state economic development officials; or

(d) Sites in an industrial or other employment land category lack diversity of ownership within a planning area when a single owner or entity controls more than 51 percent of those sites.

(8) Uses with Special Siting Characteristics. Cities and counties that adopt objectives or policies providing for uses with special site needs must adopt policies and land use regulations providing for those special site needs. Special site needs include, but are not limited to large acreage sites, special site configurations, direct access to transportation facilities, prime industrial lands, sensitivity to adjacent land uses, or coastal shoreland sites designated as suited for water-dependent use under Goal 17. Policies and land use regulations for these uses must:

Comment [TH21]: This has not been adequately enforced, if it has been enforced at all.

(a) Identify sites suitable for the proposed use;

(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use; and

(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.

660-009-0030

Multi-Jurisdiction Coordination

(1) Cities and counties are strongly encouraged to coordinate when implementing OAR 660-009-0015 to 660-009-0025.

(2) Jurisdictions that coordinate under this rule may:

Comment [TH22]: There are no incentives to do this and quite a few disincentives. There are lots of reasons to manage industrial land supply at the regional scale including transportation, other public facilities, and workforce.

(a) Conduct a single coordinated economic opportunities analysis; and

(b) Designate lands among the coordinating jurisdictions in a mutually agreed proportion.