

**Attachment D**  
**Safe Harbors – General Description**

The UGB workgroup for Phase 1 of the UGB streamlining project reached a general consensus on the intent of safe harbors. In the Division 24 UGB rules agreed to by the workgroup:

***"Safe harbor" means an optional course of action that a local government may use to satisfy a requirement of Goal 14. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division."***

The definition and intent agreed to by the Phase 1 and 2 workgroups were as follows:

- A safe harbor is a short cut or “rule of thumb” that allows a local government to answer certain questions or use a certain assumption in the UGB process.
- A safe harbor is never required; it is optional. Completely at its discretion, a local government may choose to NOT follow a safe harbor, and instead follow “standard rules” to reach conclusions in amending a UGB, including local research toward conclusions such as those provided by safe harbors.
- A local government may rely on “assumptions” of a safe harbor adopted by LCDC rule. This may avoid costly or time consuming research and free up funding for other local planning.
- LCDC, LUBA, and the courts should not use the safe harbor to help them “interpret” a requirement that is replaced by or related to the safe harbor.
- If a local government properly follows a safe harbor, the “answer” or “assumption” obtained is considered “correct” and cannot be overturned by LCDC, LUBA or (we hope) the courts. Thus, safe harbors should reduce litigation and concern about litigation regarding the UGB amendment process.
- A safe harbor may be designed to encourage broad policy intents in LCDC Goals and the land use program (e.g., efficiency of land use).
- A safe harbor should be “conservative.” The Phase 1 workgroup defined this as “a safe harbor should err on the side of the intent of underlying goals, such as UGB efficiency, resource land conservation, and housing affordability, so as not to inadvertently allow UGB decisions that contradict these goals.”
- A safe harbor must be useful. If the safe harbor is too “conservative” or too complex and therefore few cities use it, it has little value.
- In drafting safe harbors, LCDC (and the workgroup) should research key assumptions obtained by a representative sample of local governments that have amended UGBs in past years. If certain assumptions, methods and/or rules of thumb have been used and approved in the past, and if we can discern a pattern or consistency with these, this data should form the foundation of new safe harbors.