

Notes from the UGB Rulemaking Phase I Work Group

These are notes I personally took during the Phase I UGB Rulemaking work group meetings. Since they were for personal use only they are written quickly without much organization. In some cases I am relying on memory and hope there are no serious omissions or errors. Two years have passed and opinions quoted in the notes may well have changed. Many recommendations and concerns were discussed at the earlier meetings that are not included in these notes. I did find the notes helpful as we started Phase II and have referred to them at our meetings. As a result, I am making them available for anyone interested in seeing them. They are not intended to direct our work in any one direction but, rather, to create discussion starting points. I have only included notes that pertain to safe harbors in general or to those that we have agreed to look at in Phase II.

Marilyn Worrix

General Guidelines for Safe Harbors

The first work group felt that safe harbors should be:

- Optional
- A default or fall back positions-not the expectation
- Conservative
- Understandable and easy to apply
- Based on a solid foundation using available data and actual experience.
- Sensitive to the size and location of communities.
- Solving real problems
- Safe in that they are not the basis for an appeal

Safe Harbors

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Safe Harbor for Vacancy Rates

Metro

Metro provided some background material and pointed out that opponents of applying a vacancy rate argue that it is an attempt to boost housing demand (or need) to justify a larger UGB expansion. Proponents argue that a vacancy rate is needed to accommodate the reality that a portion of units are unoccupied. The best current measure of vacancy rates is probably the census but some large population densities will be getting the America Community Survey data which will be available on an annualized centered-moving average basis for 3 or 7 year spans.

Three suggested possibilities for a safe harbor:

1. Use the vacancy rate from the most recent decennial census for the census geographic place closest in description to the local jurisdiction; if for a metropolitan area, select the Census MSA which most closely approximates the UGB for the metropolitan district. This is simple and easy to understand but may not represent future conditions.
2. Calculate the arithmetic mean (average) of the vacancy rates from the two most recent decennial census (Census 1990 and 2000) to get a vacancy rate estimate for the city or MSA. Vacancy rates fluctuate so averaging may be more accurate.
3. Use the following table:

Population under 10,000.....	7.9% vacancy rate
Between 10,000 and 25,000.....	6 % vacancy rate
Greater than 25,000.....	5.7% vacancy rate

These are a combined or blended rate for both single and multi-family units. This larger sample of data may be more accurate.

OCPDA

Suggested using the Metro #1 approach. They felt that using census date gives you a standard that works for each community individually without much complexity. Data is readily available. Vacancy rates vary between communities, especially vacation home communities. The census provides a custom fit that works for most communities.

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Cities outside Metro may:

- (1) Apply a vacancy rate of 5% for all housing types: or
- (2) To encourage more affordable housing, apply vacancy rates of 2% to single-family detached (including manufactured homes on individual lots); and 7% for all other needed housing types (manufactured dwellings in parks, attached single-family, duplexes and multiple-family housing); or
- (3) Apply the average vacancy rate for the last two US Census periods for all housing types.

Other Comments

Richard Bjelland (Housing and Community Services) recommended we apply 2% and 7% to owner vs. rental housing.

Safe Harbor for Housing Density

Metro

Metro provided some background and general comments. Proponents of higher density claim that public costs (services) are reduced with greater density. The "Metropolitan Housing" rule (OAR 660-007-0035) designates minimum residential densities for new home construction with rules that:

1. Provide opportunity for at least 50% of new units to be attached single-family or multi-family.
2. A graduated overall density minimum based on the projected population of cities in metropolitan service district UGBs.
 - a. Less than 8,000 population – an overall density of 6/net buildable acre.
 - b. Midsize – 8 per acre
 - c. 50,000 or more-10/acre

This does allow for an alternate density allocation mix for new construction. They have data showing the lot size is decreasing in Clackamas, Multnomah and Washington counties.

Some local governments assume a minimum residential density that is 80% of the permitted density of various residential zones. This safe harbor would be related to housing density and mix. It also involves the "underbuild" concept. Metro found that the underbuild was about 20%, yielding a density of about 80% of the permitted densities, sometimes from slopes or lot configurations. Some studies suggest more underbuild.

Potential Safe Harbors

Density standards must consider all facets of housing. There are four principals for any housing density standard.

1. Favor resource land conservation and affordable housing.
2. Easy to understand and apply.

Option #1

1. Select all developed residential lots inside UGB
2. Discard large lots (over 5 acres)
3. Sort into zoning category
4. Calculate weighted average lot density to get overall average density for existing development.
5. Target should be 20% greater than (4).

A minimum zoning density equal to 5 could be required in expansion areas. They noted that there may be market resistance to this.

Option #2

The Metropolitan Housing rule describes clear housing standards for cities of varying size which applies only to cities in the Portland Metropolitan District. Modify Division 8 rules to include at a minimum 6-8-10 unit density regulations for the entire state.

Option #3

Recommend that vacant land subject to rezoning for single family have the following minimum lot size distribution. It does not require that actual development occur at this density.

<u>SFR Lot Size</u>	<u>% in Category</u>	<u>Cumulative</u>
0-5,000 sq. ft.	25%	25%
5,001-7,500	30%	55%
7,501-12,500	35%	90%
over 12,500	10%	100%

Recommendation for multi-family density:

The table is roughly derived from Portland data. Jurisdictions could choose (up to a maximum) amounts of each density type as long as the total multi-family capacity exceeded the minimum level of total residential capacity.

<u>MFR Density Category</u>	<u>MFR units/net acre</u>	<u>Max % of MFR to total units allowed</u>
Low-Moderate	10-15	40%
Middle	15-25	60%
High	25-100	30%

Existing Metro stock shows a range of 31% to 70% (central Portland) for multi-family. Average for the region is 33%.

Metro suggests a possible safe harbor:

Recommending the minimum percentage of vacant residential land capacity that should be assumed for multi-family.

<u>Jurisdiction Size</u>	<u>Minimum %MFR Capacity</u>
Less than 10,000	20%
Greater than 10,000	30%
Part of PMSA	40%

Due to the higher MFR densities the land devoted to MFR is substantial. If some MFR land is unnecessary it can be re-directed to other uses such as mixed use or single family.

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Assume, for example, 6,8, and 10 dwelling units per net buildable acre, depending on the size and location of the community. OR, as per Anita Yap, assume a 20% increase in the actual housing density. For highly parcelized exception area, a lower standard would be appropriate, perhaps 3-6 dwelling units.

The minimum density for urban residential land (i.e. land with urban services) equals 80% of permitted outright density in the zone. Applies to all urban residential land within the UGB.

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Safe Harbor for Infill and Redevelopment Potential/Estimate

OCPDA

Recommendation: On developed parcels of one acre or more, remove one-half acre for each existing house on parcels with the remainder considered as gross vacant land.

Residential parcels with (a) no house, and (b) assessed improvement value less than \$50,000 would be considered vacant. The suggested 1/4 acre and \$25,000 limits are too small, particularly for smaller communities with less infill development.

Metro

Background: Not much historical experience. Metro uses a “refill rate.” It is the proportion of new units developed on sites deemed as redevelopment or infill, divided by total new units developed. 15% means 1 in 4 dwelling units were on redevelopment or infill land.

Potential safe Harbor

Create a table with lot sizes and improvement values. Ratios determine whether it is a candidate for redevelopment. This would require adjustments to various economic conditions in the state.

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On developed parcels of one acre or more, remove 1/4 acre for each existing house on parcels; remainder considered as gross vacant land.

For Redevelopment Potential: On residential parcels with (a) no house, and (b) assessed improvement value less than \$25,000 considered vacant.

Safe Harbor for Minimum Urbanizable Land Lot Size

OCPDA

Recommendation: Generally, land brought into a UGB should not be allowed to be divided into less than 10 acre lots until the property is serviced and ready for urban level development. “Clustering” provisions would be desirable that would allow creation of a few smaller lots, leaving the main larger property undeveloped. The rules might allow development at a density of 5 acres per unit, if the development sites are clustered. For example, if a 20 acre parcel is brought into the UGB, the owner might be allowed to create three 1/2 acre lots, and leave the remaining 18.5 acres for just one home site.

Metro

Background: To preserve large lots in former rural areas. Also sometimes areas brought into the UGB for a special need (like large lots) require protection until developed. No rules for minimum lot sizes protections for land brought into UGB. Are for minimum lot and parcel sizes for farmland and rangeland outside the UGB. Are also rules to protect Urban Reserves. Also rule for 10 and 20 acre minimum lot sizes on rural residential land within 1 mile of UGB.

Potential Safe Harbor

There is precedent to assume a 20 acre minimum lot or parcel size—treating it as Urban Reserve basically.

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Minimum parcel size of 20 acres or prohibition of further land division to allow housing, commercial or industrial development until full range of urban services.

Safe Harbor for Housing Mix

OCPDA

Recommendation: Develop a safe harbor that would allow use of a housing mix standard for new housing that reduces the percentage of single-family homes by 10 percent from the previous census. For example, if a community had 60 percent detached single-family units in the 2000 census, it could plan for a 10 percent reduction, or 54 percent new single-family units. This would promote an increase in other dwelling types but not force a community that is traditionally more or less single-family to go with a standard that is completely out of character for that area.

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1. To encourage more affordable housing types, determine the actual housing mix for the last 10 years, decrease the percentage of detached single-family homes by 10% or more, and apply the difference to all other needed housing types, (e.g., if the actual single-family percentage was 55%, the safe harbor would be 45% single-family and 45% all other housing types); or
2. Project a 50:50 ratio of new detached single-family housing (including manufactured dwellings on individual lots) to new attached housing (including attached single-family, duplexes, manufactured homes in parks, and multiple-family housing); and
3. Must provide for some land for all needed housing types listed in ORS 197.303.

Safe Harbor for Employment Projection

Cities outside Metro may:

1. Apply the city's existing employment to population ratio applied to a 20 year population projection; or
2. To achieve jobs and housing balance, apply the existing ratio of county employment to county population, then apply this number to the city's projected 20 year population increase.

Safe Harbor for Employment Density

OCPDA

Recommendation: Further research is needed here. They doubt that a safe harbor would work well. It is difficult for communities to calculate what their employment density is and the employment density can vary widely between types of businesses as in call centers versus industrial warehouses.

