

# Implementation Guidance

## OAR 660-012-0055 and 660-012-0100

### Exemptions from the Transportation Planning Rules



DLCD developed the Climate-Friendly and Equitable Communities rules to support communities taking action to meet Oregon’s climate pollution reduction targets, while providing more housing and transportation choices for all.

DLCD is providing this resource as part of our technical assistance program. Please see our website for more information or to sign up for notices:

[www.oregon.gov/lcd/CL/Pages/CFEC](http://www.oregon.gov/lcd/CL/Pages/CFEC)

### Background

For many years, the Transportation Planning Rules have included provisions for smaller jurisdictions to request and receive exemptions from certain requirements. The updated rules for planning in Oregon’s metropolitan areas include similar provisions for exemptions. Selective exemptions provide smaller jurisdictions with the opportunity to meet a reasonable set of requirements consistent with available resources and abilities.

Any exemptions granted are approved by the DLCD director based on certain criteria.

### About this document

This document provides guidance from the Department of Land Conservation and Development. This guidance is intended to assist in the interpretation of an administrative rule but does not itself have the force of rule. This document includes recommendations that may not need to be followed to be consistent with the adopted rule.

This document was published on November 14, 2022. This is version 1.1 of this document and supersedes version 1 of this document published on October 3, 2022. The latest version of this document is available online:

[www.oregon.gov/lcd/CL/Documents/GuidanceExemptions.pdf](http://www.oregon.gov/lcd/CL/Documents/GuidanceExemptions.pdf)

### Applicability

Various exemptions are available to jurisdictions across the state. This guidance has been developed in response to updated rules that only apply to Oregon’s metropolitan areas. If you represent a city or county in Oregon and aren’t sure if rules for metropolitan areas apply to you, please review the following document, which includes a summary of responsibilities for affected local governments:

[www.oregon.gov/lcd/CL/Documents/CFECCoverviewImplementation.pdf](http://www.oregon.gov/lcd/CL/Documents/CFECCoverviewImplementation.pdf)

As provided in OAR 660-012-0011, the exemption provisions of OAR 660-012-0100(4) apply in Oregon’s metropolitan areas. For all other jurisdictions, the provisions of OAR 660-012-0055(7) apply. In each of these cases, only jurisdictions meeting a population threshold or other criteria are eligible to request an exemption, as described below.

## Within Metropolitan Areas

Within Oregon's eight metropolitan areas, the provisions in OAR 660-012-0100(4) provide for **exemptions in two cases:**

- Cities and counties with a **population of less than 10,000** within the urban area
- Jurisdictions of any size that are **newly included in an existing metropolitan area** or a newly designated metropolitan area

The provision for jurisdictions newly part of a new or existing metropolitan areas applies to jurisdictions brought in from 2022 forward. The department expects results from the 2020 Census will be available in late 2022, which could determine if additional jurisdictions will be brought into a metropolitan area, or if there will be any new metropolitan areas. The department will work with any affected jurisdictions to ensure there is a reasonable transition into meeting metropolitan requirements.

## Outside Metropolitan Areas

The exemption requirements and criteria for jurisdictions outside metropolitan areas have not changed in many years. OAR 660-012-0055(7) provides for jurisdictions below certain population thresholds to ask for an exemption. These include:

- Cities under 10,000 population
- Counties under 25,000
- Areas of a county within an urban growth boundary that contains a population less than 10,000

## Exemption Decision Criteria

For both jurisdictions inside and outside metropolitan areas, the criteria the DLCDC director will use to decide is the same, in OAR 660-012-0055(7)(a). These criteria are:

**A. Whether the existing and committed transportation system is generally adequate to meet likely transportation needs**

The director will determine if the existing transportation system and acknowledged plans are adequate to meet the needs of the community. Where the needs are likely to be met, there is a more favorable chance of receiving an exemption.

**B. Whether the new development or population growth is anticipated in the planning area over the next five years**

The director will review expected population growth and development trends to determine if an exemption is warranted. Communities with lower levels of growth are more likely to receive an exemption.

**C. Whether major new transportation facilities are proposed which would affect the planning areas**

If acknowledged plans include major new transportation facilities in the area, this would make it less likely that an exemption would be granted.

**D. Whether deferral of planning requirements would conflict with accommodating state or regional transportation needs**

The director will consider how an exemption could interfere with state or regional transportation needs.

#### **E. Consultation with the Oregon Department of Transportation on the need for transportation planning in the area, including measures needed to protect existing transportation facilities**

The director will consult with ODOT, as well as other partners, including Metro or other local jurisdictions, when reviewing an exemption request.

#### **Exemption Submittal**

The DLCDC director will review exemption requests submitted to the department. An exemption request need only be a one-to-two-page letter from the jurisdiction. The request must clearly describe the requirements the jurisdiction wishes to be exempt from. The request may address any relevant criteria, described above, that support an exemption.

There are no timelines or deadlines for submission of exemption requests. All applicable requirements apply as provided in the rules until an exemption is granted by the director.

#### **Exemption Review and Approval**

The director will review submitted requests against the review criteria in OAR 660-012-0055(7)(a). The director may choose to approve an exemption or deny an exemption request. Approved exemptions shall clearly state which requirements the jurisdiction is exempt from, and the length of time for the exemption. Approved exemptions shall last for a length of time determined by the director, or until periodic review, whichever comes first. The department expects most exemptions will be for no longer than ten years.

The director may approve more limited exemptions than what was included in the exemption request. The written exemption will be clear about what applicable requirements have been exempted.

Exemptions that have expired are no longer valid. Jurisdictions wishing to extend an existing exemption should submit an updated exemption request to the department well in advance of expiration.

As provided in OAR 660-012-0055(7)(b), the director's decision to grant an exemption under this section is appealable to the commission.

#### **Contact Information**

The department maintains a web page with information on the rules, and how local governments may best implement them:

[www.oregon.gov/lcd/CL/Pages/CFEC.aspx](http://www.oregon.gov/lcd/CL/Pages/CFEC.aspx)

To submit a request for an exemption, or more detailed questions on the exemption process, please contact DLCDC staff: Bill Holmstrom, [bill.holmstrom@dlcd.oregon.gov](mailto:bill.holmstrom@dlcd.oregon.gov), 971-375-5975.

#### **Disclaimer**

This document aims to provide information about the rules, and how the department intends to administer the rules. Nothing in this document should be construed as Oregon Administrative Rules. A current copy of the adopted rules should be acquired from the [Oregon Secretary of State](#) and used to fulfill planning requirements.

## Rule Language

Selected text from the division is provided below for convenience. Please see the versions provided by the Oregon Secretary of State for the official version of administrative rules:

Rule 0055: <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=175303>

Rule 0100: <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=292997>

### 660-012-0055: Timing of Adoption and Update of Transportation System Plans; Exemptions

(7) The director may grant a whole or partial exemption from the requirements of this division to cities under 10,000 population and counties under 25,000 population, and for areas within a county within an urban growth boundary that contains a population less than 10,000. Eligible jurisdictions may request that the director approve an exemption from all or part of the requirements in this division. Exemptions shall be for a period determined by the director or until the jurisdiction's next periodic review, whichever is shorter.

- (a) The director's decision to approve an exemption shall be based upon the following factors:
  - (A) Whether the existing and committed transportation system is generally adequate to meet likely transportation needs;
  - (B) Whether the new development or population growth is anticipated in the planning area over the next five years;
  - (C) Whether major new transportation facilities are proposed which would affect the planning areas;
  - (D) Whether deferral of planning requirements would conflict with accommodating state or regional transportation needs; and
  - (E) Consultation with the Oregon Department of Transportation on the need for transportation planning in the area, including measures needed to protect existing transportation facilities.
- (b) The director's decision to grant an exemption under this section is appealable to the commission as provided in OAR 660-002-0020 (Delegation of Authority Rule)

### 660-012-0100: Transportation System Plans in Metropolitan Areas

(4) The director may grant a whole or partial exemption from the requirements of this division to cities and counties with a population of less than 10,000 within the urban area. The director may also grant a whole or partial temporary exemption from the requirements of this division to jurisdictions of any size that are newly included in an existing metropolitan area or a newly designated metropolitan area. The director shall use the criteria and process as provided in OAR 660-012-0055(7) to decide to approve an exemption.