

14. Goal 10 – Housing/ Goal 10 Rule. Where comprehensive plan and local code provisions provide that the comprehensive plan may be amended only when “[t]here is a demonstrated public need for the change,” the governing body may rely on a 12-acre deficit of High Density Residential (HDR) land identified in its acknowledged Buildable Lands Inventory (BLI) to conclude that there is a “public need” to approve an application to redesignate six acres of land to HDR, even where, subsequent to the adoption and acknowledgment of its BLI, the governing body has approved applications to rezone other lands, totaling 92 acres, to HDR. *Carson Property LUBA Appeal, Inc. v. City of Corvallis*, 81 Or LUBA 175 (2020).

14. Goal 10 – Housing/ Goal 10 Rule. Where comprehensive plan and local code provisions provide that the comprehensive plan may be amended only when “[t]here is a demonstrated public need for the change,” and where another comprehensive plan provision states that the desired land use pattern in the urban growth boundary includes “[n]eighborhoods with a mix of uses, diversity of housing types, pedestrian scale, a defined center and shared public areas,” the governing body does not err in concluding that there is a “public need” to redesignate the subject property to High Density Residential (HDR) because the property is in a neighborhood of low- and medium-density housing and because introducing HDR zoning into the area will allow higher-density housing in a new location within the jurisdiction and potentially increase housing supply and diversity, even where the jurisdiction’s acknowledged Buildable Lands Inventory and other, more recent data indicate that there is no deficit of HDR land in the jurisdiction. *Carson Property LUBA Appeal, Inc. v. City of Corvallis*, 81 Or LUBA 175 (2020).

14. Goal 10 – Housing/ Goal 10 Rule. Where a cross-petitioner seeks a remedy not available to it by statute, it is an obstacle to LUBA’s review of the cross-assignment of error. LUBA lacks authority to affirm in part, and reverse in part a local government’s approval of cross-petitioner’s project application. ORS 197.835(1). Even assuming that the city erred by applying Willamette Greenway standards to cross-petitioner’s housing project application, because they are not “clear and objective,” the city’s decision approving the development could not be reversed because it is not “prohibited as a matter of law.” If LUBA agreed with cross-petitioners, the correct disposition would be remand, except that remand was not requested and would have no effect on the city’s decision approving the application. In such a situation, LUBA will consider the request a contingent cross-assignment of error. *Hulme v. City of Eugene*, 79 Or LUBA 218 (2019).

14. Goal 10 – Housing/ Goal 10 Rule. The city’s comprehensive plan housing goal, Goal 10, and its policies and implementing measures, provide further contextual support for the city’s interpretation of its code regarding a prohibition on lot size adjustment “[t]o allow an increase in density in the [low density residential] RL zone” by using as the denominator the gross acreage of a subdivision as a whole, rather than the acreage of individual properties. One of the Goal 10 housing goals is to “[p]romote the efficient use of vacant land by encouraging infill development which is sensitive to existing neighborhoods, and by encouraging new development which achieves the density allowed by the comprehensive plan.” The city’s interpretation is consistent with Goal 10 and the policies and implementing measures because it interprets “density” and “acre” to allow new infill development of vacant land to achieve a density that is allowed by the comprehensive plan. *Hunt v. City of the Dalles*, 78 Or LUBA 509 (2018).

14. Goal 10 – Housing/ Goal 10 Rule. Nothing in ORS 197.296 requires that the city omit from its buildable lands inventory land that is developable with residential uses if that land is subject to local regulations that prohibit or restrict development. Rather, consideration of such regulations may result in an estimate of a lower development capacity than would otherwise exist if the regulations did not exist. *Home Builders Association v. City of Eugene*, 77 Or LUBA 56 (2018).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.307(4) specifies regulations that cities may apply to *development of* needed housing on land included in the UGB and on the BLI. It does not apply to the city’s initial determination of what land is included in a city’s inventory. *Home Builders Association v. City of Eugene*, 77 Or LUBA 56 (2018).

14. Goal 10 – Housing/ Goal 10 Rule. That a city’s acknowledged buildable lands inventory indicates that the city already has an adequate supply of land zoned for R-3 (high density residential) does not undermine the city council’s conclusion that rezoning additional land to R-3 is necessary to address an identified shortage of affordable housing, where the city finds that the private housing market has been unable to address the need for affordable housing despite an adequate supply, and that rezoning surplus public land to R-3, to be donated to a housing agency, is necessary to facilitate development of affordable housing. *Crowley v. City of Hood River*, 77 Or LUBA 117 (2018).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.307(4) provides in relevant part that “a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of [ORS 197.307].” *Warren v. Washington County*, 76 Or LUBA 295 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. Statewide Planning Goal 10 (Housing) and two statutes, ORS 197.307(3) and ORS 197.296, work together to require local and regional governments to plan and zone sufficient buildable land to accommodate “needed housing.” *Warren v. Washington County*, 76 Or LUBA 295 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. The needed housing statutes are set out at ORS 197.295 through 197.314. ORS 197.296(3)(b) requires that local governments inventory the supply of buildable lands with urban growth boundaries and “[c]onduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.” However, the needed housing planning obligations set out at ORS 197.296 *et seq.* apply directly to the Metropolitan Service District (Metro) and do not apply directly to the individual local governments within Metro’s jurisdiction. *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. The purpose of OAR chapter 660, division 7 is to clarify the more general planning obligations with regard to ensuring an adequate supply of buildable lands and planning for a mix of housing types that are set out in a number of statutes, Goal 10 (Housing), and LCDC administrative rules. *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. The “mix” of housing requirement of the Metro Housing Rule at OAR 660-007-0030(1) is that jurisdictions must designate sufficient buildable lands to provide an opportunity for at least 50 percent of new housing to be attached single-family housing or multiple family housing. The minimum residential “density” requirement of OAR 660-007-0035(1) is that certain specified Metro cities must provide for an overall density of six or more dwelling units per net buildable acre. *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. A finding that a proposed 31-lot subdivision will provide some housing is not sufficient to establish that the proposal complies with the mix and density requirements of OAR chapter 660, division 7, which is what OAR 660-007-0060(2)(a) requires. *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. Applying a zone that allows both single-family and multi-family dwellings is consistent with the OAR 660-007-0030(1) “mix” requirement for “the opportunity for at least 50 percent of new housing to be attached single family housing or multiple family housing.” *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. Under OAR 660-007-0060(2)(a), when adopting a post-acknowledgment plan or zoning map amendment, the focus is on “the amendment.” OAR 660-007-0060(2)(a) only requires that the amendment itself must comply with the minimum six dwelling units per acre density standard. If that amendment, considered with all other post-acknowledgment plan and land use regulation amendments, causes the city’s supply of residentially zoned land, viewed as a whole, to fall under the “six or more dwelling units per net buildable acre” standard, the mechanism under OAR chapter 660, division 7 to correct that overall imbalance is periodic review. *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. Under Metro Code 3.07.120(e) “[A] city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city’s or county’s overall minimum zoned residential capacity.” A finding that the area of the property affected is small when compared with the area of the entire city is not the comparison required by Metro Code 3.07.120(e). Metro Code 3.07.120(e) requires a comparison of (1) the reduction of the “minimum zoned capacity” of the subject property with (2) the “city’s * * * overall minimum zoned residential capacity.” *Housing Land Advocates v. City of Happy Valley*, 75 Or LUBA 227 (2017).

14. Goal 10 – Housing/ Goal 10 Rule. A unitary application for development of a road is not “needed housing” as defined in ORS 197.303(1). The definition includes a non-exclusive list of “housing types” in subsections (a) through (e), and a road is simply not a “housing type[;]” it is a road. *GPA I, LLC v. City of Corvallis*, 73 Or LUBA 339 (2016).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.307(4) requires a local government to apply only clear and objective conditions to proposed needed housing on buildable land. Conditions subject to ORS 197.307(4) include conditions imposed in earlier land use decisions that still govern development of buildable land. Accordingly, a local government may apply a condition of an

earlier land use decision to needed housing on buildable land only if the condition is clear and objective. *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. A condition that prohibits the location of an assisted living facility within 135 feet of a property line is ambiguous and requires interpretation to determine whether the condition also prohibits the location of multi-family residential development within the 135-foot setback. Accordingly, the condition is not “clear and objective,” and pursuant to ORS 197.307(4) cannot be applied to deny proposed development of needed housing. *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. Under ORS 197.307(6), a local government may impose unclear, subjective or discretionary standards and conditions on needed housing only if it offers an alternative path that allows needed housing subject only to clear and objective standards and conditions. It is not consistent with ORS 197.307(6) for a local government to require an applicant for needed housing to either (1) demonstrate that needed housing is consistent with an unclear and subjective condition of a 1981 development approval, or (2) apply under discretionary standards to modify the 1981 development approval to eliminate the unclear and subjective condition. *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. A local government may not require an applicant for needed housing to seek approval under discretionary standards to modify a condition of approval that was imposed on the subject property in an earlier decision approving planned development, unless the condition was imposed on development of needed housing and the predecessor-in-interest chose the discretionary planned development path in lieu of an alternate path for needed housing subject only to clear and objective standards and conditions, consistent with the two-track framework embodied in ORS 197.307(6). *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.307(7) authorizes a local government to impose “special conditions” on needed housing. However, pursuant to ORS 197.307(4), any “special conditions” imposed on needed housing must be clear and objective. *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. A street design standard stating that “cul-de-sacs should not serve more than 18 dwelling units” is not a clear and objective approval standard that can be applied to approve or deny needed housing for purposes of ORS 197.307(4), where in order to apply the standard to deny proposed housing accessed by an existing cul-de-sac the local government had to interpret the street design standard to determine (1) whether it applied at all to the proposed needed housing, and (2) whether it imposes a mandatory approval standard. *Group B, LLC v. City of Corvallis*, 72 Or LUBA 74 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. Where a county applies a new rural zone that effectively prohibits new residential uses within a rural unincorporated community, the county may have to consider whether application of the new zone is consistent with its obligations under Statewide Planning Goal 10 (Housing), if the county has relied upon vacant lands within the rural unincorporated community to meet its Goal 10 obligation to provide an adequate inventory of

buildable lands within urban growth boundaries. *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. Where a county applies a new rural zone that effectively prohibits new residential uses within a rural unincorporated community, the county may have to consider whether application of the new zone is consistent with its comprehensive plan Housing Element if the county relies upon vacant land within that community to meet an identified need to serve local, rural housing needs. *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. The ORS 197.307(4) obligation to apply only clear and objective standards and conditions to “needed housing” applies only to “needed housing on buildable land.” Because “buildable land,” as defined, is limited to land within urban growth boundaries, ORS 197.307(4) does not apply to land within a rural unincorporated community. *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. If a county has relied on vacant lands within a rural unincorporated community to satisfy its obligation under Goal 10 to provide an adequate supply of building lands, in applying a new zone to that community that effectively prohibits new residential development, and which may effectively shift residential demand to other communities, OAR 660-008-0030(10) would require the county to “consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.” *Seabreeze Associates Limited Partnership v. Tillamook County*, 71 Or LUBA 218 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city comprehensive plan’s Housing Element and Housing Inventory identifies single-family second homes as needed housing, but does not identify vacation rental dwellings as needed housing, the needed housing statute is not implicated by a city ordinance that amends the zoning code’s regulations governing vacation rental of dwellings. *Oregonians in Action v. City of Lincoln City*, 71 Or LUBA 234 (2015).

14. Goal 10 – Housing/ Goal 10 Rule. Under Goal 10, the Goal 10 administrative rule and state statutes, local governments are limited in the kinds of standards they may apply to applications for “needed housing.” Where an application is an application for “needed housing,” it is entitled to the Goal, rule and statutory protections given to applications for “needed housing,” even if the application would replace one kind of “needed housing” with another kind of “needed housing.” *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. Where an applicant identifies seven land use regulation standards and takes the position that they are not “clear and objective,” and for that reason may not be applied to deny its application for approval of “needed housing,” a city errs by applying those standards to deny the request for approval of needed housing without explaining in its findings why the city believes it is entitled to apply those standards to deny the application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. The ORS 197.307(4) requirement that “needed housing” be subject only to “clear and objective” approval standards applies to all approval standards and is not limited to aesthetic criteria. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires that a proposal comply “with applicable elements of the Comprehensive Plan, including: Traffic Plan, Water Plan, Sewer Plan, Storm Drainage Plan, Bicycle Plan, and Park Plan” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires that “[p]otential land use conflicts have been mitigated through specific conditions of development” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires “[a]dequate basic urban services are available, or can be made available by the applicant as part of a proposed development, or are scheduled by the City Capital Improvement Plan” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires “[p]rovision of public facilities and services to the site will not cause service delivery shortages to existing development” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard requires that “[t]he characteristics of existing adjacent development have been determined and considered in the development of the site plan” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires “[t]raffic conflicts and hazards are minimized on-site and off-site” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A standard that requires “[t]here are adequate provisions for maintenance of open space and other common areas” is not “clear and objective” and may not be applied to deny an application for needed housing. *Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 requires the city to inventory buildable lands, and where a city has done that inventory, even if due to recent annexations and rezoning of annexed lands there is no longer a shortage of lands designated medium-high density, rezoning additional

lands to create a surplus of medium-high density residential land is not inconsistent with Goal 10. *Hess v. City of Corvallis*, 70 Or LUBA 283 (2014).

14. Goal 10 – Housing/ Goal 10 Rule. A zoning text amendment that merely lists other existing development standards that may or may not apply to needed housing on their own terms cannot be challenged on the basis that the unamended development standards may include subjective or unclear standards applicable to needed housing, in violation of ORS 197.307(4) and Goal 10. If the existing unamended development standards violate ORS 197.307(4), such violations can be challenged only in an appeal of a decision that adopts, amends or applies those standards. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city adds 28 acres of land to its Goal 10 inventory to meet an identified need for residential land, the city’s alleged failure to conduct public facilities planning to support future residential development of the inventoried lands may violate Goal 11, but does not violate Goal 10 or indicate that the city’s Goal 10 inventory is inadequate. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. Whether a new standard requiring a five-acre minimum development area violates the ORS 197.307(4) and Goal 10 prohibition on standards that have the effect of discouraging needed housing through “unreasonable” cost or delay cannot be meaningfully addressed on appeal of the legislative decision adopting the new standard, because depending on numerous variables the new standard may cause little or no cost or delay to needed housing. Such a standard can only be meaningfully challenged under the statute and goal in an as-applied challenge. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. The ORS 197.307(4) and Goal 10 prohibition on subjective and unclear standards or standards that cause unreasonable delay in providing needed housing is not violated by a code provision that requires peer review of applications proposing a major modification to a development standard. The statute and rule prohibitions do not apply when an applicant for needed housing seeks a variance to a clear and objective approval standard. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. That a local code provision prohibiting grading or development on portions of a site that exceed 20 percent slopes requires some interpretation in order to apply the provision does not necessarily mean that the provision is not clear and objective, or that it requires a subjective, value-laden analysis. *SE Neighbors Neighborhood Assoc. v. City of Eugene*, 68 Or LUBA 51 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. Nothing in the language of ORS 197.307, the needed housing statute, prohibits a city from offering a discretionary process for approval of a proposal for needed housing as long as the non-discretionary process remains available to an applicant. The needed housing statute protects an applicant for a permit for needed housing from the city’s imposition of discretionary standards without its agreement, but an applicant may agree to be bound by discretionary standards without running afoul of the statute. *SE Neighbors Neighborhood Assoc. v. City of Eugene*, 68 Or LUBA 51 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. A legislative annexation decision that leaves existing county comprehensive plan and land use regulations in place, including county residential comprehensive plan and zoning map designations, does not implicate Goal 10. *Roads End Water District v. City of Lincoln City*, 67 Or LUBA 452 (2013).

14. Goal 10 – Housing/ Goal 10 Rule. A zone change application is not “an application for development of needed housing” within the meaning of ORS 197.307(3)(b) and is not subject to the prohibition in ORS 197.307(6) (2009) against applying criteria that are not “clear and objective” to such applications. *EEC Holdings LLC v. City of Eugene*, 65 Or LUBA 179 (2012).

14. Goal 10 – Housing/ Goal 10 Rule. To the extent a code definition of “foredune” is an “approval standard” for purposes of the requirement at ORS 197.307(6) that approval standards applied to needed housing must be clear and objective, where the code defines “foredune” to include the “lee or reverse slope” that definition is sufficiently clear and objective, as the slope of a property is an objectively determinable fact that does not involve subjective, value-laden analysis. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

14. Goal 10 – Housing/ Goal 10 Rule. Goals 9 and 10 do not apply to a city decision on a conditional use application for a single family dwelling, and the city is not obligated to consider whether denying the conditional use application impacts the city’s obligations under Goals 9 and 10 to maintain adequate inventories of commercially, industrially and residentially zoned lands. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.829(1)(d) authorizes LUBA to reject an interpretation of a comprehensive plan provision or land use regulation that implements a statute, land use goal or rule, if the interpretation is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements. ORS 197.829(1)(d) is not a vehicle to allow LUBA to reverse an interpretation of a code definition that implements and is consistent with Goal 18, based on arguments that if that interpretation is applied in other cases it might impact the adequacy of the city’s Goal 9 and 10 inventories of commercial, industrial and residential lands. *Rudell v. City of Bandon*, 64 Or LUBA 201 (2011).

14. Goal 10 – Housing/ Goal 10 Rule. Under the Federal Fair Housing Act Amendments of 1988 (FHAA), “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling” constitutes discrimination against that person and a violation of the FHAA. *Phillips v. Lane County*, 62 Or LUBA 92 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. A hearing official decision to grant an accommodation under the Federal Fair Housing Amendments Act of 1988 (FHAA) to allow a proposed group care home to house up to 20 residents provides no basis for remand, even if the accommodation was not warranted under the FHAA, where the local government’s regulations concerning group homes do not impose a numerical limit on the number of residents that could occupy a group care home. *Phillips v. Lane County*, 62 Or LUBA 92 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. Where the OAR 660-008-0005(6) definition of “redevelopable land” specifically encompasses land on which the local government determines there is a “strong likelihood” that the lots will be redeveloped more intensively, a local government does not err in excluding land from its analysis of “redevelopable land” where it concludes that there is not a strong likelihood that redevelopment will occur on any lands within the city due to the arrangement of existing development and market factors. *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 211 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. OAR 660-008-0005(2) contains a presumption that land is “buildable land” unless it possesses one or more of the characteristics listed in the rule—topography, placement of buildings, and access issues—in which case the city may exclude it from the definition of buildable land, as long as the city explains why one or more of the listed factors render the excluded land undevelopable for residential uses. *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 211 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. Where ORS 197.296 does not apply, Goal 10 and its implementing statute and rules do not require a city to concurrently address a current, unmet need for more affordable housing when it conducts an evaluation of its residential land needs. *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 211 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. A local code requirement that an applicant for a dwelling in a certain zone show that “it is safe to build” the dwelling is a standard that is not “clear and objective” as required by ORS 197.307(6), and the local government may not deny the dwelling application based on an alleged failure to satisfy that standard. *Rudell v. City of Bandon*, 62 Or LUBA 279 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. The provisions in ORS 197.307 that relate directly to “needed housing,” as defined in ORS 197.303(1), including the ORS 197.307(6) requirement that approval standards that are applied to needed housing must be clear and objective, are made inapplicable by ORS 197.303(2) to cities with populations under 2,500. *Montgomery v. City of Dunes City*, 60 Or LUBA 274 (2010).

14. Goal 10 – Housing/ Goal 10 Rule. A local government does not improperly defer rezoning of land within an urban growth boundary to the maximum planned residential density under OAR 660-008-0025 where the local government has zoned the lands challenged by petitioner R-3 and R-4, the R-3 zone allows densities that are twice the maximum planned residential density and the R-4 zone allows more than three times the maximum planned residential density. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

14. Goal 10 – Housing/ Goal 10 Rule. A zoning ordinance standard that makes the number of required parking spaces for multiple family development depend on the number of bedrooms in each unit does not violate the ORS 197.307(6) requirement that approval standards applied to needed housing must be clear and objective. The parking requirement is more properly viewed as a *performance* standard rather than an *approval* standard. *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

14. Goal 10 – Housing/ Goal 10 Rule. Even if a zoning ordinance standard that makes the number of required parking spaces for multiple family development depend on the number of bedrooms in each unit is properly viewed as an approval standard that under ORS 197.307(6) must be clear and objective, making the required number of parking spaces depend on the number of bedrooms in each multiple family unit is sufficiently “clear and objective” to comply with ORS 197.307(6). *Home Builders Association v. City of Eugene*, 59 Or LUBA 116 (2009).

14. Goal 10 – Housing/ Goal 10 Rule. It is premature to argue that a legislative decision that adopts a new Airport Related zoning district violates a city’s obligation to protect industrial and commercial land from incompatible uses under Statewide Planning Goal 9 and violates Goals 10 and 14 by impermissibly converting industrially zoned land, for which there is a shortage, to a residential airpark use, which is not needed under Goal 10. Such arguments must await a city decision that actually applies the new Airport Related zoning district to some property in the city. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122 (2008).

14. Goal 10 – Housing/ Goal 10 Rule. It may be that a city’s buildable lands inventory (BLI) can be written and structured so that it can be updated without incorporating the update into the city’s comprehensive plan. However, where a city’s BLI is not the type of BLI that might be updated and relied upon without incorporating the updated BLI into the comprehensive plan, a city decision relying on that BLI update to enlarge the city’s urban growth boundary, without first adopting the updated BLI as part of the city’s comprehensive plan, is error. *Lengkeek v. City of Tangent*, 54 Or LUBA 160 (2007).

14. Goal 10 – Housing/ Goal 10 Rule. The obligation to adopt findings under OAR 660-007-0060(2), part of the Metropolitan Housing Rule, is triggered only by plan and land use regulation amendments that are either intended to comply with the construction and density mix standards in the rule or that impact local government provisions complying with those standards. *J.T. Smith Companies v. City of West Linn*, 54 Or LUBA 339 (2007).

14. Goal 10 – Housing/ Goal 10 Rule. A legislative decision that establishes a floor area ratio (FAR) standard for residential housing does not trigger application of the construction and density mix standards in OAR chapter 660, division 7, where the petitioner fails to demonstrate that the FAR standard affects the city’s obligation to provide for an overall density of eight or more dwelling units per acre. *J.T. Smith Companies v. City of West Linn*, 54 Or LUBA 339 (2007).

14. Goal 10 – Housing/ Goal 10 Rule. Absent a focused challenge from petitioners, staff reports analyzing proposed floor area ratio (FAR) standards for residential development and concluding that the FAR standards would have no impact on future residential construction and development are sufficient to demonstrate that the FAR standards are consistent with Goal 10. *J.T. Smith Companies v. City of West Linn*, 54 Or LUBA 339 (2007).

14. Goal 10 – Housing/ Goal 10 Rule. A city properly relies on its established buildable lands inventory (BLI) to determine that a comprehensive plan amendment will not violate Goal 10 (Housing), even if the findings reference a more recent BLI that is not adopted in the comprehensive plan, where the reference is merely to explain that the city is not relying on the more recent BLI. *Columbia Empire Farms, Inc. v. City of Dundee*, 53 Or LUBA 39 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. When a city has a 170-acre “reserve” that is zoned residential, but is not included in the city’s buildable lands inventory as future residential land, the city does not violate Goal 10 (Housing) by adopting a comprehensive plan change that devotes approximately 17 acres of the 170-acre “reserve” to non-residential transportation uses. *Columbia Empire Farms, Inc. v. City of Dundee*, 53 Or LUBA 39 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. Where there is uncertainty about when a proposed bypass will be approved, funded, or constructed, a city is not required to consider the indirect impacts of the bypass, such as increased housing demand due to shorter commute times to a regional center, on the city’s residential lands inventory. *Columbia Empire Farms, Inc. v. City of Dundee*, 53 Or LUBA 39 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 215.416(8)(a) simply requires that permit approval standards be included in a county’s land use regulations. The ORS 215.416(8)(b) requirement that permit standards that apply to needed housing be “clear and objective” does not apply to permits for other kinds of development. *Clark v. Coos County*, 53 Or LUBA 325 (2007).

14. Goal 10 – Housing/ Goal 10 Rule. Extrapolation of a local government’s buildable lands inventory based on assumptions not contained in the comprehensive plan is not compatible with the Goal 2 requirement that decisions be based on the comprehensive plan. *Lengkeek v. City of Tangent*, 52 Or LUBA 509 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. A local government may rely on population projections contained in the transportation system plan portion of the comprehensive plan in amending its urban growth boundary. *Lengkeek v. City of Tangent*, 52 Or LUBA 509 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. Particular housing types are “needed housing” for purposes of ORS 197.303 through 197.307 if the local comprehensive plan identifies a need for that housing type at particular price ranges and rent levels. *Concerned Homeowners v. City of Creswell*, 52 Or LUBA 620 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city’s UGB includes a surplus of 185 acres of land that is available for annexation and rezoning for residential use to meet the city’s needs during its planning period, the city’s decision to rezone less than one acre of residentially zoned land in the city for commercial use does not violate Goal 10. *Jaffer v. City of Monmouth*, 51 Or LUBA 633 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. The lands that a city is relying on to meet its needs for residentially planned and zoned land for the planning period must be included inside the city’s urban growth boundary. However, all of the land that the city is relying on to meet its need for residentially planned and zoned land is not required to be located within the city limits at the beginning of the planning period. *Jaffer v. City of Monmouth*, 51 Or LUBA 633 (2006).

14. Goal 10 – Housing/ Goal 10 Rule. The city’s conclusion that there is a demonstrated need to add 90 acres of residential land to the city’s residential buildable lands inventory, based on

information submitted by the applicant that uses a planning period to the year 2020, is not inconsistent for purposes of Goal 2 (Land Use Planning) with the buildable lands inventory in the acknowledged comprehensive plan that relies on a planning period that ends in 2004 or 2005. *Lengkeek v. City of Tangent*, 50 Or LUBA 367 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 (Housing) requires local governments to inventory available residential buildable lands, and Goal 2 (Land Use Planning) requires those inventories to be part of the comprehensive plan. Where the residential buildable lands inventory in the comprehensive plan is not useable, and an applicant presents evidence regarding the current inventory of buildable lands, Goal 1 (Citizen Involvement), Goal 2 and Goal 10 require that the comprehensive plan be amended to incorporate that inventory. *Lengkeek v. City of Tangent*, 50 Or LUBA 367 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 (Housing), Goal 2 (Land Use Planning) and Goal 1 (Citizen Involvement) require that a population projection that forms the basis of a city’s residential lands needs analysis be incorporated into the comprehensive plan. *Lengkeek v. City of Tangent*, 50 Or LUBA 367 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 requires that local governments make assumptions about the types and density of housing it expects over its planning period. Once those assumptions are adopted as part of the comprehensive plan, subsequent amendments to the comprehensive plan and land use regulations must ensure that the amendments do not render the assumptions invalid. *4-J Land Co., LLC v. City of Sandy*, 50 Or LUBA 525 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. It is not sufficient under Goal 10 to demonstrate that it remains theoretically possible to achieve anticipated development densities notwithstanding amendments to residential zoning standards. To be consistent with Goal 10, the local government must show that the amendments will not alter the types or densities of development that its acknowledged planning documents anticipate will actually occur during the planning period. *4-J Land Co., LLC v. City of Sandy*, 50 Or LUBA 525 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city has adopted a buildable lands inventory and a housing needs analysis to comply with Goal 10’s requirement for a housing needs projection, even though the city may not have been required to adopt the inventory and analysis under ORS 197.296, when the city subsequently amends its comprehensive plan and land use regulations it must ensure that those amendments do not render the assumptions in the inventory and analysis invalid. *4-J Land Co., LLC v. City of Sandy*, 50 Or LUBA 525 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. A petitioner’s challenge that a city may not rely on housing that is subject to conditional use and planned development standards that are not clear and objective to meet its needed housing goals will be rejected, where those standards are not a product of the comprehensive plan or land use regulation on appeal. *4-J Land Co., LLC v. City of Sandy*, 50 Or LUBA 525 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Secondary effects from transportation projects such as noise or visual impacts do not render nearby residential lands “unavailable” or “unsuitable” for

residential development, thereby taking them out of the definition of “buildable land.” *1000 Friends of Oregon v. City of Dundee*, 49 Or LUBA 601 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. A city may rely on a recent buildable lands inventory (BLI) that is a completed final document in demonstrating that a proposed transportation project will not result in a deficiency of buildable land under Goal 10 (Housing), even if that BLI has not yet been incorporated into the comprehensive plan. *1000 Friends of Oregon v. City of Dundee*, 49 Or LUBA 601 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. When a city’s population passes 2,500, more types of needed housing must be addressed, but the city does not have to amend its housing inventory before it can adopt any land use decision that will affect housing. *1000 Friends of Oregon v. City of Dundee*, 49 Or LUBA 601 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. Coordination requirements regarding a planned transportation corridor are not “approval standards” within the meaning of ORS 197.307(6), and therefore are not required to be “clear and objective.” *1000 Friends of Oregon v. City of Newberg*, 49 Or LUBA 626 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. The city need not address Goal 10 impacts from a relocated transportation corridor when the impacts on the supply of buildable land from the relocated corridor will be less than impacts from the original corridor. Any challenge is an impermissible collateral attack on the earlier decision. *1000 Friends of Oregon v. City of Newberg*, 49 Or LUBA 626 (2005).

14. Goal 10 – Housing/ Goal 10 Rule. A local code standard that prohibits development in wetlands does not violate the ORS 197.307(6) requirement for “clear and objective” approval standards for needed housing. Where an applicant seeks a variance to that local code prohibition against development in wetlands, ORS 197.307(6) does not prohibit application of subjective variance approval standards. *Linstromberg v. City of Veneta*, 47 Or LUBA 99 (2004).

14. Goal 10 – Housing/ Goal 10 Rule. A city finding that plan amendments that authorize residential and nonresidential development in a floodplain does not offend Goal 7 because residential development is already allowed in the floodplain under the acknowledged comprehensive plan is sufficient to demonstrate that the plan amendment does not violate Goal 7. That the development authorized in the acknowledged comprehensive plan is residential development and the city does not consider land in a floodplain for purposes of meeting its housing obligations under Goal 10 does not mean that the land could not be developed residentially under the acknowledged comprehensive plan. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

14. Goal 10 – Housing/ Goal 10 Rule. A city may rely on the residential buildable lands inventory in its acknowledged comprehensive plan and need not update that inventory when adopting a post-acknowledgment plan amendment. Where that inventory shows a surplus of residential buildable lands both before and after a plan amendment that designates some of those lands to allow other uses, the city may rely on that remaining surplus to find the plan amendment is consistent with Goal 10 housing planning requirements. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

14. Goal 10 – Housing/ Goal 10 Rule. A city decision that results in the potential for development of more high-density housing than is identified as needed in the acknowledged comprehensive plan does not offend Goal 10. *Jaqua v. City of Springfield*, 46 Or LUBA 134 (2004).

14. Goal 10 – Housing/ Goal 10 Rule. Neither Goal 10 nor Goal 14 require a finding of “demonstrated need” for additional residential land within the meaning of Goal 2, Part II or Goal 14, factors 1 and 2 before the city may amend its comprehensive plan map to allow property to be zoned for residential rather than industrial uses. *Holcombe v. City of Florence*, 45 Or LUBA 59 (2003).

14. Goal 10 – Housing/ Goal 10 Rule. Although market demand for rural residential housing is not sufficient to establish “need” for such housing for purposes of taking an exception to statewide planning goals governing rural resource lands, there is no reason why market demand cannot suffice to establish “need” for rural residential housing for purposes of a local rezoning standard, nor any reason why such need must be evaluated against the county’s Goal 10 inventory. *Friends of Yamhill County v. Yamhill County*, 43 Or LUBA 97 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Given that ORS 197.299 requires Metro to review the supply of residential land within the Metro UGB at least every five years, Metro is not obligated to provide a quasi-judicial UGB amendment process, in addition to a legislative process, to ensure that the Metro UGB as a whole maintains an adequate supply of residential land. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. While the courts have held that Metro can consider housing need on a subregional basis, at least in some circumstances, no legislation compels Metro to do so, or prohibits Metro from relying exclusively on legislative reviews of the entire regional UGB to ensure compliance with Goals 10 and 14. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. The speculative possibility that a subregional housing shortage will arise in the interim between the five-year UGB reviews required by ORS 197.299, and that Metro will decline to initiate a legislative proceeding to address that interim shortage, is an insufficient basis to establish that a quasi-judicial UGB amendment process is essential to ensure continued compliance with Goals 10 and 14. *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Even assuming that the ORS 197.307(6) prohibition against procedures that “discourage needed housing through unreasonable cost or delay” applies to Metro, which does not process applications for development of needed housing, petitioner’s speculation that Metro will delay initiating a legislative UGB amendment for housing needs is insufficient to establish that Metro’s failure to also provide for a quasi-judicial UGB amendment process for housing need will result in “unreasonable delay.” *Homebuilders Assoc. v. Metro*, 42 Or LUBA 176 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Land use regulation purpose or applicability provisions that by their terms or the terms of other related code provisions do not apply as approval criteria

for needed housing are not “standards” that must, pursuant to ORS 197.307(6), be clear and objective. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city adopts a comprehensive update to its zoning code in an effort to comply with the ORS 197.307(6) requirement that standards applied to needed housing statutes be “clear and objective,” and in so doing carries forward preexisting standards that are not clear and objective, such standards are subject to review under ORS 197.307(6), and such review does not constitute an impermissible collateral attack on those standards. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. A code amendment that grants discretionary authority for city staff to impose conditions on approval of needed housing may constitute or contain “standards” or “procedures for approval” that must, under ORS 197.307(6), be clear and objective. Such standards are subject to review in an appeal of the city’s legislative decision adopting the amendment. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Even numerical standards such as setbacks and height limitations may not be clear and objective, if the reference point from which the setback or limitation is measured is stated in undefined descriptive terms. Absent reasonable means of locating the reference point, a needed housing standard requiring a 100-foot setback from any “rare animal population” is not clear and objective. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. A needed housing standard requiring that new dwellings be within a 4-minute response time for emergency medical services is not clear and objective, where the city did not adopt a map or otherwise provide a clear and objective way to determine whether proposed needed housing is located in an area meeting the standard. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. The needed housing statute at ORS 197.307 is not concerned with the timing of development, nor does it require that all areas of the city be immediately available for development of needed housing under clear and objective standards. The statute is not offended by a standard that effectively requires needed housing developers to apply under discretionary standards designed to address public safety concerns until emergency services are extended to currently unserved portions of the city. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Imposing a clear and objective standard that is impossible or virtually impossible to satisfy is a prohibition in the guise of a standard, and offends ORS 197.307 if the standard effectively forces the needed housing applicant to seek approval for needed housing under an alternative set of discretionary approval criteria. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. The needed housing statute at ORS 197.307 does not require a conflict mechanism for resolving potential conflicts between clear and objective criteria. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Although ORS 197.307(6) prohibits standards or procedures that alone or cumulatively discourage needed housing through unreasonable cost or delay, it will be difficult to establish in an appeal of a legislative decision adopting standards or procedures that they cause *unreasonable* cost or delay and have the effect of discouraging needed housing. In most cases, such challenges can only be brought and meaningfully reviewed in the context of an “as-applied” challenge to a quasi-judicial decision. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Any cost or delay attributable to a standard or procedure that is unreasonable as a matter of law, *i.e.*, lacks a rational basis, violates the statutory prohibition on standards or procedures that discourage needed housing through unreasonable cost or delay. An informational requirement that needed housing applicants prepare a geotechnical study lacks a rational basis, where the required geotechnical study functions only to supply the city with potentially expensive information that has no bearing on any approval standard. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Where petitioners make a facially plausible showing that new tree protection and water resource regulations are likely to reduce the development potential for residential, commercial and industrial lands, the city has an obligation to demonstrate that despite any such reductions in development potential the city’s inventories continue to comply with Goals 9 and 10. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. Goals 9 and 10 do not prohibit increases in regulatory burdens or require local governments to refrain from imposing any particular level of regulatory burden. Therefore, incorporation of comprehensive plan policies into the zoning code pursuant to ORS 197.195, in order to apply those policies as approval criteria to limited land use decisions, does not violate Goals 9 and 10 even if application of such policies as approval criteria would impose additional regulatory burdens on development of Goal 9 and 10 lands. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. The Goal 10 coordination requirement at OAR 660-008-0030(1) that local governments coordinate with other governments in the region “in arriving at a fair allocation of housing types and densities” applies only if a local government ordinance affects the allocation of housing types and densities. Not all local government programs with arguable impacts on housing or Goal 10 will trigger the OAR 660-008-0030(1) coordination requirement. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

14. Goal 10 – Housing/ Goal 10 Rule. The housing needs projection required by the Goal 10 rule is the same housing needs analysis that is required by ORS 197.296(3) for conducting a review of an urban growth boundary. Because the Goal 10 rule requires that the housing needs projection must be “consistent with Goal 14 requirements,” the housing needs analysis under ORS 197.296(3) must be consistent with Goal 14 requirements. *DLCD v. City of McMinnville*, 41 Or LUBA 210 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. LCDC’s choice to adopt rules that require the housing needs analysis required by ORS 197.296(3) to be “consistent with Goal 14 requirements” is essentially a choice to require that, where the analysis identifies a significant deficit in the supply of buildable land within the UGB, the city must complete the statutory process at ORS 197.296(4) through (7) and adopt one or more of the actions described in the statute to remedy the identified deficit. Because the statute and rule prescribe an iterative process highly integrated with Goal 14, the city cannot achieve finality with respect to the housing needs analysis under ORS 197.296(3) without also taking action under ORS 197.296(4) through (7). *DLCD v. City of McMinnville*, 41 Or LUBA 210 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. Although rezoning a 1.94-acre parcel from residential to commercial may not violate Goal 10, a local government errs in finding that Goal 10 is irrelevant to the rezoning request. *Swyter v. Clackamas County*, 40 Or LUBA 166 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 concerns needed housing, and nothing in the Goal 10 rules requires a local government to provide housing for a “recreational golf course lifestyle” absent support for such housing in the local comprehensive plan or Goal 10 inventory. *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. A local government must rely on the housing inventory contained in its acknowledged comprehensive plan to determine whether rezoning property from multi-family residential to commercial use will cause the local government’s housing inventory to violate Goal 10. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. A local government’s determination that there is sufficient land designated multi-family residential to satisfy Goal 10 is supported by substantial evidence when the acknowledged Goal 10 housing inventory establishes that the city has a 238-acre surplus of land designated for multi-family development, and the proposal is to rezone only eight acres from multi-family residential to commercial. *Craig Realty Group v. City of Woodburn*, 39 Or LUBA 384 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. The requirement under ORS 197.307(6) for clear and objective approval standards applies to “needed housing,” as that concept is defined by statute and administrative rule. An argument that new land use regulations are not clear and objective provides no basis for reversal or remand, where petitioner fails to demonstrate that the new land use regulations apply to “needed housing.” *Rest-Haven Memorial Park v. City of Eugene*, 39 Or LUBA 282 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. Pursuant to ORS 197.480(5), a local government can apply clear and objective criteria for the placement and design of manufactured home parks. A local provision requiring that each home in manufactured home parks be within 500 feet of a fire hydrant capable of providing a defined minimum flow is a clear and objective criterion. *Doob v. Josephine County*, 39 Or LUBA 276 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. That a local government has neither conducted the inventory and needs analysis required by ORS 197.480 nor made a determination of needed

housing with respect to manufactured home parks does not prohibit the local government from approving a manufactured home park, or waive the local government's obligation to comply with ORS 197.480. *Doob v. Josephine County*, 39 Or LUBA 276 (2001).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 does not prohibit including more land that is planned and zoned for multi-family development than is identified as needed in the comprehensive plan. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. Criteria governing an application to rezone property to allow for the siting of a mobile home park need not comply with requirements in ORS 197.307 and 197.480 for “clear and objective” standards regulating the siting of needed mobile homes when a city has otherwise planned and designated sufficient land to satisfy the need for mobile home parks within its jurisdiction. *Evergreen Development, Inc. v. City of Coos Bay*, 38 Or LUBA 470 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. A city is not required to permit the siting of mobile home or manufactured dwelling parks in all zones that permit residential densities of 6 to 12 units per acre. ORS 197.480(1) merely requires that areas designated for those residential densities contain enough land to accommodate the city's identified need for mobile home or manufactured dwelling parks. The accommodation may be achieved by allowing the parks only in one such zone. *Evergreen Development, Inc. v. City of Coos Bay*, 38 Or LUBA 470 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. ORS 197.307(6) does not prohibit a city from requiring an applicant for a zone change to demonstrate a need for that change where the city establishes that it has already designated sufficient land to accommodate its need for mobile home parks. *Evergreen Development, Inc. v. City of Coos Bay*, 38 Or LUBA 470 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. Unless a local government's findings establish a relationship between a housing study in the record and its acknowledged Goal 10 inventory, a local government may not rely on that study to support a finding that the loss of 41 acres of intermediate density housing is consistent with its acknowledged Goal 10 inventory. *DLCD v. City of Warrenton*, 37 Or LUBA 933 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 and OAR chapter 660, division 8 include a requirement that a local government ensure that amendments to its acknowledged land use regulations do not “discourage needed housing through unreasonable cost or delay.” However, Goal 10 does not require that *all* house plans be held harmless from increased costs. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. Goal 10 and OAR 660-008-0015 are not violated where the record demonstrates that increased housing costs that may be attributable to an amended land use regulation can be avoided or minimized and that there are many existing house plans to comply with the amended land use regulation. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. The requirement under Goal 10 that land use regulations allow flexibility of housing “types” does not necessarily extend to protect particular housing design features. Where petitioner does not demonstrate that amended land use regulations so heavily regulate the permissible “design” of dwellings that the Goal 10 requirement for flexibility of housing “types” is violated, LUBA will reject the challenge. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. A petitioner’s arguments that amended land use regulations violate a comprehensive plan policy by increasing housing costs and discouraging infill development provide no basis for remand, where the plan policy encourages both infill and preserving neighborhood livability and the city’s findings explain that the regulations are needed to ensure that infill housing development can be accommodated in neighborhoods without eroding livability. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. A plan goal requiring preservation of neighborhood diversity does not require diversity of housing designs where, in context, the word “diversity” is properly interpreted to refer to “age, income, race and ethnic background” of the people in the neighborhood rather than housing designs. *Homebuilders Association v. City of Portland*, 37 Or LUBA 707 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. A comprehensive plan amendment that increases the required right-of-way for major arterials from 80 feet to 100 feet may reduce the supply of buildable land and commercial sites and thus requires findings that address Statewide Planning Goals 9 and 10. *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. A decision amending an acknowledged comprehensive plan housing inventory without amending existing approval standards that are applied to needed housing is not required to demonstrate that those existing approval standards are “clear and objective,” as required by ORS 197.307(6). *Volny v. City of Bend*, 37 Or LUBA 493 (2000).

14. Goal 10 – Housing/ Goal 10 Rule. Subjective conditional use criteria designed to balance or mitigate the impacts of development on property or the adjoining community are not “clear and objective criteria and standards” that can be applied to approve or deny manufactured dwelling parks under ORS 197.480(5). *Multi/Tech Engineering v. Josephine County*, 37 Or LUBA 314 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. Where a county fails to implement ORS 197.480 to designate residential areas in which manufactured dwelling parks can be located as allowed uses subject only to clear and objective criteria, and the county’s ordinance subjects all manufactured dwelling parks to subjective conditional use criteria, the county cannot apply those criteria to approve or deny a manufactured dwelling park. *Multi/Tech Engineering v. Josephine County*, 37 Or LUBA 314 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. A county plan amendment imposing a “sequencing” requirement that proposed attached housing be built before completing proposed detached housing is supported by an adequate factual base, where a reasonable decision maker could conclude, based

on testimony in the record, that the sequencing requirement is necessary to forestall attempts to underbuild attached housing, which may subvert the county's minimum density standard. *West Hills Development Co. v. Washington County*, 37 Or LUBA 46 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. Petitioners fail to demonstrate that a county's plan amendment lacks an adequate factual base and is inconsistent with Goal 10 where petitioners merely speculate that the county's plan amendment, which requires that proposed attached housing be built at a site before completing proposed detached housing, will adversely affect the county's buildable lands inventory. *West Hills Development Co. v. Washington County*, 37 Or LUBA 46 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. Petitioners fail to demonstrate that a county's minimum density standard lacks an adequate factual base or is inconsistent with Goal 10 where petitioners merely speculate that application of the standard will make it impossible to develop certain lands at lower densities. Even if petitioners' speculations are correct, the only probable result is that those lands will be developed at higher densities, which is not inconsistent with Goal 10. *West Hills Development Co. v. Washington County*, 37 Or LUBA 46 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. A decision to remove 40 acres of land from a city's inventory of multi-family residential land must be shown to be consistent with the inventory of buildable lands in the housing element of the city's comprehensive plan. A general finding that there are other available lands that would satisfy residential needs is inadequate to explain why the city's inventory of multi-family residential land remains adequate to meet the city's needs despite a decision to remove 40 acres from that inventory. *Mulford v. Town of Lakeview*, 36 Or LUBA 715 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. In determining whether rezoning of land from multi-family to single-family residential uses is consistent with Goal 10 and the city's obligation to provide for multi-family dwellings, the relevant inquiry is not limited by the amount of land designated for multi-family residential uses. The city can take into account multi-family dwellings that have been approved in other zones in determining whether the proposed rezoning is consistent with the city's obligation to provide a sufficient number of multi-family dwellings. *Herman v. City of Lincoln City*, 36 Or LUBA 521 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. Substantial evidence supports a city's rezoning of land from multi-family to single-family residential uses, where the city's inventory indicates a need for 1,081 multi-family dwellings, and a reasonable person could conclude that the number of existing and approved multi-family dwellings exceeds 1,081 units, notwithstanding flaws in the city's analysis that render the exact number of those dwellings uncertain. *Herman v. City of Lincoln City*, 36 Or LUBA 521 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. A county's conclusory finding that goals protecting housing are not violated by rezoning rural residential property for industrial use because proximity of the property to commercial and industrial uses and an interstate highway makes use of the property for rural residential uses impracticable is inadequate, where the record includes no

evidence of conflicts with those uses that might make rural residential uses impracticable. *James v. Josephine County*, 35 Or LUBA 493 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. Where petitioners do not develop their argument that Statewide Planning Goal 10 and an implementing comprehensive plan housing protection goal categorically prohibit changing the zoning or planning designations of rural residential lands to allow rural industrial use, LUBA will reject the argument. *James v. Josephine County*, 35 Or LUBA 493 (1999).

14. Goal 10 – Housing/ Goal 10 Rule. A comprehensive plan amendment that significantly reduces the supply of residential land implicates Goal 10. Findings that fail to discuss the current housing inventory and needs, anticipated population growth, or whether available vacant land is buildable are inadequate to demonstrate consistency with Goal 10. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A legislative amendment that changes mobile home parks from a conditional use to a use in a floating zone which has not been applied to any particular site conflicts with ORS 197.480(1) and (2), which require that the city zone specific lands for mobile home parks, commensurate with the need for such parks. *Creswell Court v. City of Creswell*, 35 Or LUBA 234 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. It is inconsistent with Goal 10 to remove an entire category of housing types from a local government’s future housing stock without supporting that decision by a buildable lands inventory and housing needs projections. *Creswell Court v. City of Creswell*, 35 Or LUBA 234 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A housing needs projection based on the unsupported assumption that the entirety of the city’s future population growth will consist of middle to upper income residents is inconsistent with Goal 10. *Creswell Court v. City of Creswell*, 35 Or LUBA 234 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Where a local government’s acknowledged comprehensive plan identifies a need “for housing within an urban growth boundary at particular price ranges and rent levels,” any housing types that are determined to be necessary to meet that need are considered “needed housing,” within the meaning of ORS 197.303(1). *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Even if high-cost housing could be excluded from “needed housing” under ORS 197.303(1), where such high-cost housing is included in the housing needs identified in the comprehensive plan, it constitutes “needed housing” within the meaning of the statute. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. OAR 660-008-0005 permits a local government to exclude lands with slopes in excess of 25 percent from its buildable lands inventory for housing. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city’s buildable lands inventory does not include underdeveloped residential lands, it need not consider whether more restrictive land use regulations will have impacts on them. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city’s decision adopts more restrictive land use regulations affecting residential lands, it must consider the impact of those regulations on unincorporated lands inside the UGB, if the city relies on such land to meet its identified housing needs. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Legislative history makes it clear that “needed housing” is not to be subjected to standards, conditions or procedures that involve subjective, value-laden analyses designed to balance or mitigate impacts of the development on (1) the property to be developed or (2) the adjoining properties or community. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A city’s failure to clearly and objectively identify the information that must be submitted in support of an application for approval to construct needed housing does not violate the statutory requirement for “clear and objective” “procedures for approval.” Under ORS 227.178(2) the city is required to notify the applicant of exactly what information is missing from the application within 30 days of receipt of the application. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A city code provision that allows it to impose conditions on applications to construct “needed housing” to “mitigate any potential negative impacts caused by the development” violates the statutory requirement for “clear and objective” procedures for such applications. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A code requirement that vegetation included in a planting plan be “native vegetation” is a sufficiently clear and objective standard under ORS 197.307(6). That the requirement includes an option to use “similar species” in place of “native vegetation” does not mean the requirement is not clear and objective. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A code requirement that needed housing site grading “shall consider the sensitive nature of these areas,” “[retain] existing grades to the greatest extent possible [and] avoid an artificial appearance by creating smooth flowing contours of varying gradients” is not “clear and objective,” within the meaning of ORS 197.307(6). *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Local code standards requiring that trees of a particular diameter be “incorporated into the project design whenever possible” and that development must preserve “the maximum number of existing trees” and that “building envelopes must be located and sized to preserve the maximum number of trees” are sufficiently clear and objective to comply with ORS 197.307(6). *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A post-construction enforcement provision that potentially affects “needed housing” does not violate ORS 197.307(6), because the statute only limits “standards, special conditions and procedures” when reviewing applications for needed housing. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A local building design requirement to “cut buildings into hillsides to reduce visual bulk” is sufficiently clear and objective to comply with ORS 197.307(6), where the requirement includes a diagram making it clear that achieving a level building pad is to be accomplished by cutting rather than by filling or by a combination of cutting and filling. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. A code requirement for a detailed geotechnical study with an application to develop hillside lands could be applied in a way that would result in “unreasonable cost or delay” affecting needed housing, in contravention of ORS 197.307(6). However, the code requirement need not necessarily be applied in that manner and, therefore, the code requirement itself does not violate ORS 197.307(6), even though application of that requirement in particular cases might. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. The ORS 197.307(3) requirement for clear and objective conditions and standards for certain housing when regulating for appearance or aesthetic purposes does not apply to regulations adopted to regulate for other purposes, even if those regulations may also regulate for appearance or aesthetic purposes. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. OAR 660-008-0015 requires that local governments apply nondiscretionary approval standards to needed housing. A standard that requires that the color, material and appearance of new exterior siding and roofing be “similar to” the color, material and appearance of existing siding and roofing in the community is not nondiscretionary. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. Where plan amendments undermine assumptions that support acknowledged plan provisions directed at Goal 10 requirements, the local government must demonstrate that the plan as amended still complies with Goal 10. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

14. Goal 10 – Housing/ Goal 10 Rule. When the size of the city’s buildable lands inventory was calculated, deemed adequate and acknowledged on the assumption there would be redevelopment resulting in 2,400 multiple family units within a mile of downtown, the city must, before adopting new regulations which undermine that assumption, consider the impact of the new regulations on the city’s buildable lands inventory. *Opus Development Corp. v. City of Eugene*, 30 Or LUBA 360 (1996).

14. Goal 10 – Housing/ Goal 10 Rule. When adopting post-acknowledgment plan and zone map amendments affecting residentially designated land within an urban growth boundary, a local

government must demonstrate that it continues to satisfy its Goal 10 obligation to maintain an adequate inventory of buildable lands. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

14. Goal 10 – Housing/ Goal 10 Rule. Under OAR 660-08-015(12) and (13), a buildable lands inventory may include “redevelopable” residentially designated land that is already built upon. However, land which has a mixed-use comprehensive plan designation, rather than a residential plan designation, cannot be included in a buildable lands inventory. OAR 660-08-020(1). *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

14. Goal 10 – Housing/ Goal 10 Rule. Where a city has a population of less than 2,500 people, the city’s comprehensive plan and land use regulations do not implement the “needed housing” provisions of either ORS 197.307(6) or Goal 10 and, therefore, the city’s interpretation of its plan and land use regulations is not subject to reversal or remand on the basis of inconsistency with statutory and goal standards relating to “needed housing.” *Shelter Resources, Inc. v. City of Cannon Beach*, 27 Or LUBA 229 (1994).