

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Where a county approves a reasons exception to Goal 11 to allow extension of city water to serve a highway rest area, and imposes a condition of approval requiring city approval, but later modifies the condition to substitute rural irrigation water for city water to be used to irrigate landscaping, the modification does not necessarily change the “type” of public facilities and service and thus require a new reasons exception pursuant to OAR 660-004-0018(4)(b). Generally, a new reasons exception is required under OAR 660-004-0018(4)(b) only for changes that make the exception area less conforming to the goal. *Foland v. Jackson County*, 70 Or LUBA 247 (2014).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Because Goal 11 defines “water system” as a system for the provision of piped water for human consumption, modifying a condition of approval so that city water is not used for irrigating landscaping, but used only for human consumption, does not constitute a change in the type or intensity of the “water system” for purposes of OAR 660-044-0018(2)(b) and thus modifying the condition does not require a new reasons exception. *Foland v. Jackson County*, 70 Or LUBA 247 (2014).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. OAR 660-004-0018(2)(a) and (b) limit new uses on an exception site to “those * * * [t]hat are the same as the existing land uses on the exception site” and those that will maintain the land as “[r]ural [I]and’ as defined by the goals[.]” If the new uses are not the same as the existing land uses or will not maintain the land as rural land, then a reasons exception is required in order to use the site for a new use. *Ooten v. Clackamas County*, 70 Or LUBA 338 (2014).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. The requirement in OAR 660-004-0018(2)(a) that the proposed uses be the “same as the existing land uses on the exception site” requires the county to consider the uses that were “recognized or justified” in the exception statement. It does not allow the county to consider current uses on the site that were not “recognized or justified” in the exception statement. *Ooten v. Clackamas County*, 70 Or LUBA 338 (2014).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. OAR 660-004-0018 is clear that an exception to one or more goals does not insulate all future changes in the plan and zone designations of the property subject to the exception from needing an exception for uses not recognized or justified under the exception. *Ooten v. Clackamas County*, 70 Or LUBA 338 (2014).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A local government does not err in not applying OAR 660-012-0070(5) and (6), which govern the analysis for transportation improvements that do not require a new exception, to evaluate the petitioner’s alternative site for a highway interchange, where the record does not support the petitioner’s claim that the new interchange could be located without expanding an existing exception area that was approved for a two-lane rural overpass. In that circumstance, OAR 660-012-0070(7) applies to govern the alternatives analysis when a transportation improvement requires a new exception. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Where constructing a new highway interchange in an existing exception area would constitute a change in the type of use or change in the intensity of the use justifying an existing exception, OAR 660-012-0070(10) and OAR 660-004-0018(4)(b) require a new exception as a matter of law, even if the existing exception area could accommodate the proposed interchange as a matter of engineering. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. In approving an exception to allow construction of a temporary \$25 million highway interchange, a local government is not required to include guarantees that the temporary interchange will not be converted to a permanent interchange or identify reasons to justify the interchange as permanent, where the exception decision approves only a temporary interchange, and any attempt to convert it into a permanent interchange will require a new goal exception. *Storm v. Yamhill County*, 66 Or LUBA 415 (2012).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. In approving a public recreational vehicle (RV) campground under OAR 660-035-0035 and 0040, a local government need not limit infrastructure such as septic RV dumps, water and electric services to the most minimally intensive infrastructure that is possible, to avoid the necessity of taking an exception to Goal 3. *Linn County Farm Bureau v. Linn County*, 63 Or LUBA 347 (2011).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A county does not err in concluding that providing central septic dump sites for recreational vehicles (RVs) in a public RV campground does not require an exception to Statewide Planning Goal 3, where if the county did not provide central RV dump sites it would have to increase the size or number of communal restrooms to meet campers' needs, offsetting any reduction in septic infrastructure. *Linn County Farm Bureau v. Linn County*, 63 Or LUBA 347 (2011).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A county does not err in concluding that providing a water spigot and an electrical outlet in individual campsites in a public recreational vehicle campground does not require an exception to Goal 3, where providing necessary services to campers requires a dispersed water and electric grid in any event, and the additional infrastructure to supply water and electricity to individual sites is not significantly greater than that otherwise required to provide basic services. *Linn County Farm Bureau v. Linn County*, 63 Or LUBA 347 (2011).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. OAR 660-034-0040(4), governing local park planning, clearly provides that “some” of the listed park uses permitted in a local park on EFU land require an exception to Goal 3, in the absence of a local master park plan. However, the rule is profoundly ambiguous regarding which of the listed park uses require an exception in the absence of a local master park plan. *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. The context provided by Goal 3, the Goal 3 rule on private park/campgrounds, Goal 3 Guideline B.1, and the state agricultural land use policies at ORS 215.243, suggest that the public park uses and

facilities listed in OAR 660-034-0035(2)(a) through (g) that require a Goal 3 exception in the absence of a master park plan are those that involve higher-intensity development or infrastructure, where there exist less intensive alternatives that minimize permanent loss of agricultural land to non-agricultural use. *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. The provision of full septic, water and electric hookups to individual campsites in a public RV park/campground constitutes higher-intensity development or infrastructure that, in the absence of a master park plan, requires an exception to Goal 3. *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Because the public park rule at OAR 660-034-0035(2) allows a campground “group shelter” in a local public park, but effectively prohibits a “meeting hall” in a local public park, a county cannot approve a fully enclosed, 1,200-square-foot “clubhouse” intended for all-season group activities unless it demonstrates that the clubhouse is properly viewed as a “group shelter” rather than a “meeting hall.” *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Because a commercial use such as a convenience store is not allowed in the EFU zone or on Goal 3 land without a Goal 3 exception, a “camp store” similar in function to a convenience store is not permitted in a local public park on EFU land, in the absence of an exception to Goal 3 or the adoption of a local master park plan. *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Where a county’s EFU zone does not permit solid waste disposal sites, but the statutory EFU zone does allow solid waste disposal sites, under the holding in *DLCD v. Yamhill County*, 183 Or App 556, 53 P3d 462 (2002), a county may not approve an exception to Goal 3 (Agricultural Lands) to allow a solid waste disposal site on EFU-zoned property. Rather, the county must amend its EFU zone to allow solid waste disposal sites if it wishes to authorize that use on its EFU-zoned land. *Waste Not of Yamhill County v. Yamhill County*, 61 Or LUBA 423 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A comprehensive plan provision prohibiting application of a Rural Residential plan designation to land that is currently designated farm or forest “unless an exception to the applicable Goal 3 or 4 is justified” could be interpreted such that the prohibition does not apply to nonresource land that is not subject to either goal. However, the stronger textual reading is that the qualifier “applicable” simply reflects that the subject property is currently designated under either Goal 3 or Goal 4, whichever is applicable, and an exception to the applicable goal is required in order to redesignate the property to Rural Residential. *Rogue Advocates v. Jackson County*, 60 Or LUBA 392 (2010).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. OAR 660-034-0035—and by cross-reference OAR 660-034-0040—provide a list of uses that are allowed in state and local parks, some of which are generally not allowed on resource lands without an

exception to the resource goals. However, no exception is required if the uses are authorized in a state or local park master plan. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. By implication, some of the park uses listed in OAR 660-034-0035(2) do not require a goal exception, even if there is no acknowledged park master plan. However, the rule does not specify which uses do or do not require a goal exception in the absence of a park master plan. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Park uses listed in OAR 660-034-0035(2) that are passive, low-intensity uses similar to those allowed in campgrounds in resource zones do not require a goal exception to be placed in state or local parks. *Rural Thurston Inc. v. Lane County*, 55 Or LUBA 382 (2007).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A county cannot lawfully include resource lands within an urban unincorporated community unless that land remains planned and zoned for resource uses or the county takes an exception to Goals 3 and 4. *Oregon Shores Cons. Coalition v. Coos County*, 50 Or LUBA 444 (2005).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A county does not violate the Religious Land Use and Institutionalized Persons Act (RLUIPA) by requiring that an applicant for a church on exclusive farm use land within three miles of an urban growth boundary apply for a statewide planning goal exception as required by OAR 660-033-0130. The exceptions process does not in itself impose a substantial burden on a person’s religious exercise and does not constitute unfair delay. *Young v. Jackson County*, 49 Or LUBA 327 (2005).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Land that qualifies as “agricultural land” based on soil classification cannot be classified as something other than agricultural land based on existing land use patterns or other factors listed in the definition of “agricultural land” that serve to include lands within the definition of agricultural land that do not otherwise qualify based on the soils classifications. *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 508 (2004).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. When a local government demonstrates that land may be included in an urban growth boundary under OAR 660-004-0010(1)(c)(B)(i) by demonstrating compliance with the seven factors of Goal 14, the local government need not take exceptions to other goals individually. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Although OAR 661-004-0010(1)(c)(B)(i) nominally requires a local government to apply all seven of the Goal 14 factors, when the local government is proceeding under the “unneeded but committed” exception, the two “need” factors of Goal 14 need not be addressed. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. When a local government amends its urban growth boundary under the “unneeded but committed” exception it demonstrates that the land is committed to urban uses under the five “locational factors” of Goal 14. The local government need not adopt an irrevocably committed exception under OAR 660-004-0028. *Milne v. City of Canby*, 46 Or LUBA 213 (2004).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. To the extent amendments to physically developed or irrevocably committed exceptions are required to comply with OAR 660-004-0018, the standards applicable to such exception areas are those at OAR 660-004-0018(2). Unlike standards applicable to reasons exception areas, OAR 660-004-0018(2) does not require a new exception when allowing changes to uses, densities or services in physically developed or irrevocably committed exception areas. *Friends of Yamhill County v. Yamhill County*, 41 Or LUBA 247 (2002).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Even when the Goal 14 rule on rural residential development at OAR 660-004-0040 does not apply to a proposed plan or zone change for residential development on rural land, a local government must still address whether the proposed residential development is consistent with Goal 14. *Friends of Yamhill County v. Yamhill County*, 41 Or LUBA 247 (2002).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Where the applicant presents argument and evidence that property designated and zoned for forest use is not in fact forest land protected by Goal 4, making an exception to that goal unnecessary to rezone the property for residential use, the county errs in denying the rezoning application without addressing the issue or explaining why it believes the subject property is protected by Goal 4. *Potts v. Clackamas County*, 40 Or LUBA 371 (2001).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. A reasons exception allowing rural residential housing must meet the approval criteria of OAR 660-004-0022(2), but approving a community water and sewer system also requires an exception to Goal 11 because such systems are not generally necessary for rural residential housing and must be approved as separate uses. *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. OAR 660-004-0018(4) requires a new reasons exception when an applicant changes the type or intensity of uses within an area for which a reasons exception was approved. Where a reasons exception to Goal 3 is based on the proposed expansion of an existing truck stop, the county cannot approve a more intensive independent truck stop without a revised exception. *Flying J., Inc. v. Marion County*, 38 Or LUBA 149 (2000).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. Because OAR 660-033-0120 and 660-33-0130 prohibit establishment of a church on high-value farmland, the only procedure available to site a church on high-value farmland is to apply for an exception to the applicable goals under Goal 2. *Corp. of Presiding Bishop v. Klamath County*, 34 Or LUBA 131 (1998).

6.3.5 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – When Required. When an earlier acknowledged comprehensive plan amendment imposes a condition that any proposed conditional use or use variance shall require a revised exception to the Statewide Planning Goals, a new plan amendment is required before additional conditional uses can be allowed, since taking an exception necessitates a plan amendment. *Leathers v. Marion County*, 31 Or LUBA 220 (1996).