

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. A county’s interpretation of an irrevocably committed exception as allowing all uses on the exception site that are allowed in the zone that was applied to the site when the exception was approved is inconsistent with OAR 660-004-0018(3), which requires a new reasons exception for a proposed use of land that is different from the use for which an exception was originally taken unless the proposed new use maintains the land as rural land. *Hood River Valley Residents v. Hood River County*, 75 Or LUBA 452 (2017).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. OAR 660-004-0018(3) applies directly to a proposed change in the use of an exception area, where (1) the proposed change in use is one that will arguably no longer maintain the land as rural land and (2) the zone applied to the exception area does not unambiguously allow urban uses of the exception area. *Hood River Valley Residents v. Hood River County*, 75 Or LUBA 452 (2017).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. 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).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. While OAR 660-004-0018(4) requires that a reasons exception must limit uses authorized to those justified in the exception, the rule does not expressly require that the local government use the mechanism of an overlay zone to achieve that end, or preclude the use of appropriate conditions imposed under the plan or zoning amendments as part of the reasons exception. *Devin Oil Co., Inc. v. Morrow County*, 62 Or LUBA 247 (2010).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. LUBA will reverse under ORS 197.829(1) a governing body’s interpretation that a Limited Use overlay zone is applied to limit uses in exception areas only when the applicant requests it, and that instead conditions of approval can be applied to limit uses, when (1) the Limited Use overlay zone is expressly intended for that purpose, (2) nothing in the code suggests an alternative mechanism to limit uses or authorizes attaching conditions of approval to limit uses in exception areas, and (3) under the county’s interpretation and the criteria that govern designation of the overlay zone there are no circumstances under which the overlay zone could be applied. *Devin Oil Co., Inc. v. Morrow County*, 62 Or LUBA 247 (2010).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. While OAR 660-004-0018(4) requires that local governments adopt a new reasons exception when changing the types or intensities of uses within an area subject to a reasons exception, a decision that simply corrects the official zoning map to accurately reflect prior zoning amendments does not change the types or intensities of uses allowed on the property. *Sullivan v. Polk County*, 51 Or LUBA 107 (2006).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. Simply because OAR 660-004-0018(1) has clarified since 1986 that an exception to one goal does not relieve a

local government from other goal requirements does not mean that the converse was true prior to adoption of the rule. Rezoning property located in a Goal 3 exception area adjacent to a UGB requires consideration of Goal 14, even if OAR 660-004-0018(1) was not applicable at the time the Goal 3 exception was taken. *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 160 (2004).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. A finding that recreational zoning may be applied to land that is subject to a physically developed exception for industrial uses because some of the uses allowed in an industrial zone may also be allowed in a recreation zone is not responsive to OAR 660-004-0018(2)(a), which requires that the zoning designation must “limit uses, density and public facilities and services to those which are the same as the *existing* land uses on the exception site.” *Doty v. Coos County*, 42 Or LUBA 103 (2002).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. Findings that conclude that a proposed recreational zoning designation will not permit urban uses on rural land because (1) the anticipated use of the property is allowed in the county’s recreation zone, which is acknowledged as a rural zone, and (2) density is limited to the land’s “carrying capacity,” are inadequate to demonstrate compliance with OAR 660-004-0018(2)(b)(A) because acknowledgement of a zone as being generally in compliance with Goal 14 does not mean that all uses that may be approved under that zone are necessarily rural in nature. *Doty v. Coos County*, 42 Or LUBA 103 (2002).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. Findings that assume that a proposed recreation use will be less intensive than the former industrial uses but do not address the diverse impacts that could result from recreational use of the property are inadequate to satisfy OAR 660-004-0018(2)(b)(B) and (C) because the uses are dissimilar and result in different impacts on adjacent and nearby resource land. *Doty v. Coos County*, 42 Or LUBA 103 (2002).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. Whether uses or zones are “identified and authorized by specific related policies” in the local government’s plan within the meaning of OAR 660-004-0018, and thus whether a new exception is necessary to expand uses allowed in an exception zone, depends on whether the policy refers to specific uses or zones in relation to the subject property. *Geaney v. Coos County*, 34 Or LUBA 189 (1998).

6.3.6 Goal 2 – Land Use Planning – Exceptions/ Exception Rule – Changes to. When a change in the type or intensity of an existing use is proposed for an exception area, the county must (1) make findings showing either that Goal 14 does not apply or the proposal complies with an existing Goal 14 exception; or (2) take a new Goal 14 exception. *Leathers v. Marion County*, 31 Or LUBA 220 (1996).