

Council Roundup for August 21, 2023

The Newberg City Council met on August 21, 2023 and took the following actions.

Approved:

Motion to appoint four new members to the Rate Review Committee, including Ned Knight, Derek Duff, Derrick Wharf, and Anna Arsenault.

In other business:

Heard June 2023 department statistics report from City Manager.

Tabled Harvest House MOU discussion item for September 5, 2023 meeting.

Heard public comment from three individuals in regards to the Harvest House MOU item. Those who signed up were informed of the agenda change but elected to comment anyway.

Heard a presentation from Community Development Director Doug Rux on the Urban Growth Boundary Process.

Appointed new members to Rate Review Committee

Councilor Olson brought up the forward looking calendar for the Planning Commission in order to make Council aware of any quasi-judicial hearings and upcoming decisions that may come before council.



City Council Business Session

August 21, 2023 - 6:00 PM

Newberg Public Safety Building 401 E. Third Street

Denise Bacon Community Room

Hybrid Meeting

Please Click This Url To Join: <https://Us06web.Zoom.us/j/85119546399>

Or Join By Phone: 719 359 4580

Webinar Id: 85119546399

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. CITY MANAGER'S REPORT

- 4.A CM statistics report for June data
[CM statistics report for June data.pptx](#)

5. PUBLIC COMMENTS

6. REPORTS AND PRESENTATIONS

- 6.A Urban Growth Boundary Processes
[2023 FORM A - INFORMATION RCA.pdf](#)
[Attachment 1 - Council UGB 8-21-23.pdf](#)
[Attachment 2 - goal14.pdf](#)
[Attachment 3 - Division 24.pdf](#)
[Attachment 4 - Divison 25.pdf](#)
[Attachment 5 - Enrolled SB 4.pdf](#)

7. COUNCIL APPOINTMENTS

- 7.A Appointment of committee members to Rate Review Committee
[MOTION Appoint RRC .docx](#)
[ResumeNJK23_Ned Knight.docx](#)
[Derek Duff Resume EITHER NURA OR RATE REVIEW.docx](#)
[2023 - Resume-Derrick-Wharff.pdf](#)

[Anna Arsenault Resume \(4\).pdf](#)

8. NEW BUSINESS

- 8.A Harvest House MOU Discussion
[CWC MOU-Signed- 4.1.22.pdf](#)

9. COUNCIL BUSINESS

- 9.A Councilor Olson: Planning Commission Forward Looking Calendar
[Planning_Commission_Forward_looking_Calendar Aug 10 2023_.pdf](#)

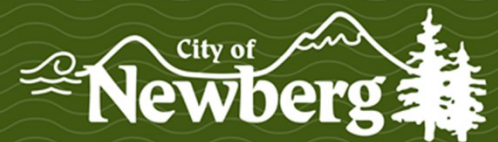
10. ADJOURNMENT

ADA STATEMENT

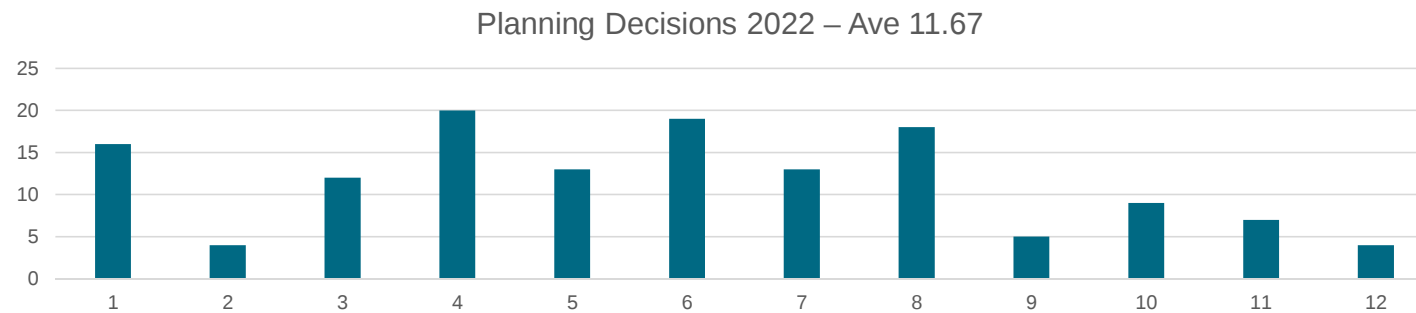
Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.

Newberg CM report

Monthly Statistics to the end of June

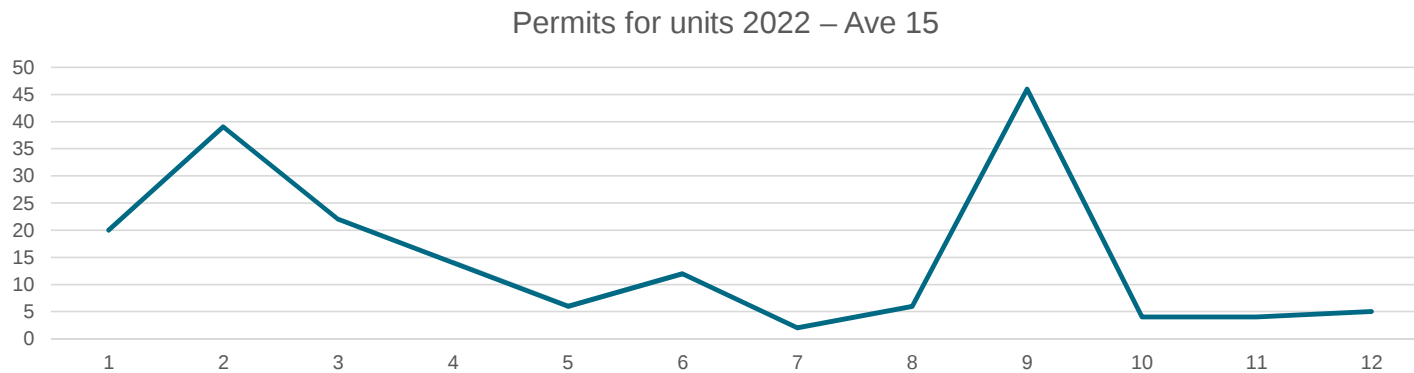
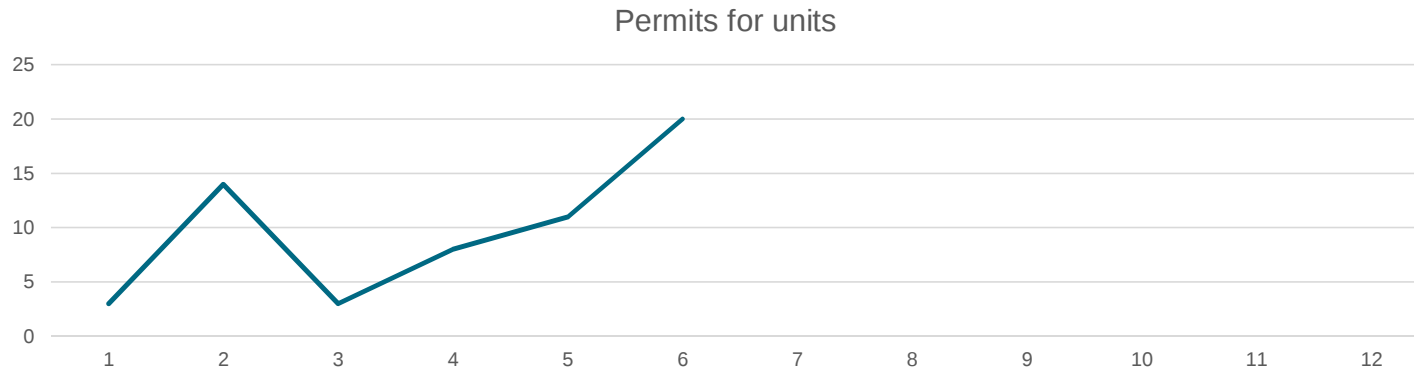


Planning: combined planning decisions of all sorts*: 25

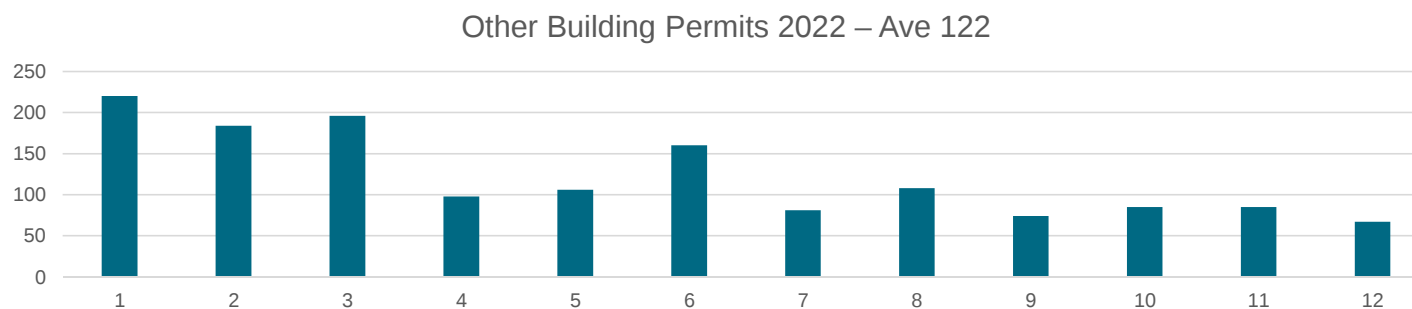
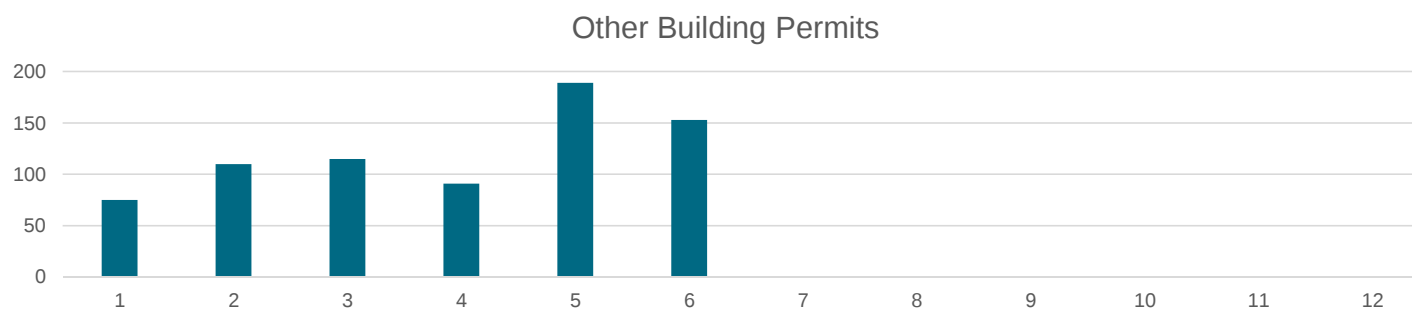


* Combined from the Director, Planning Commission and Council

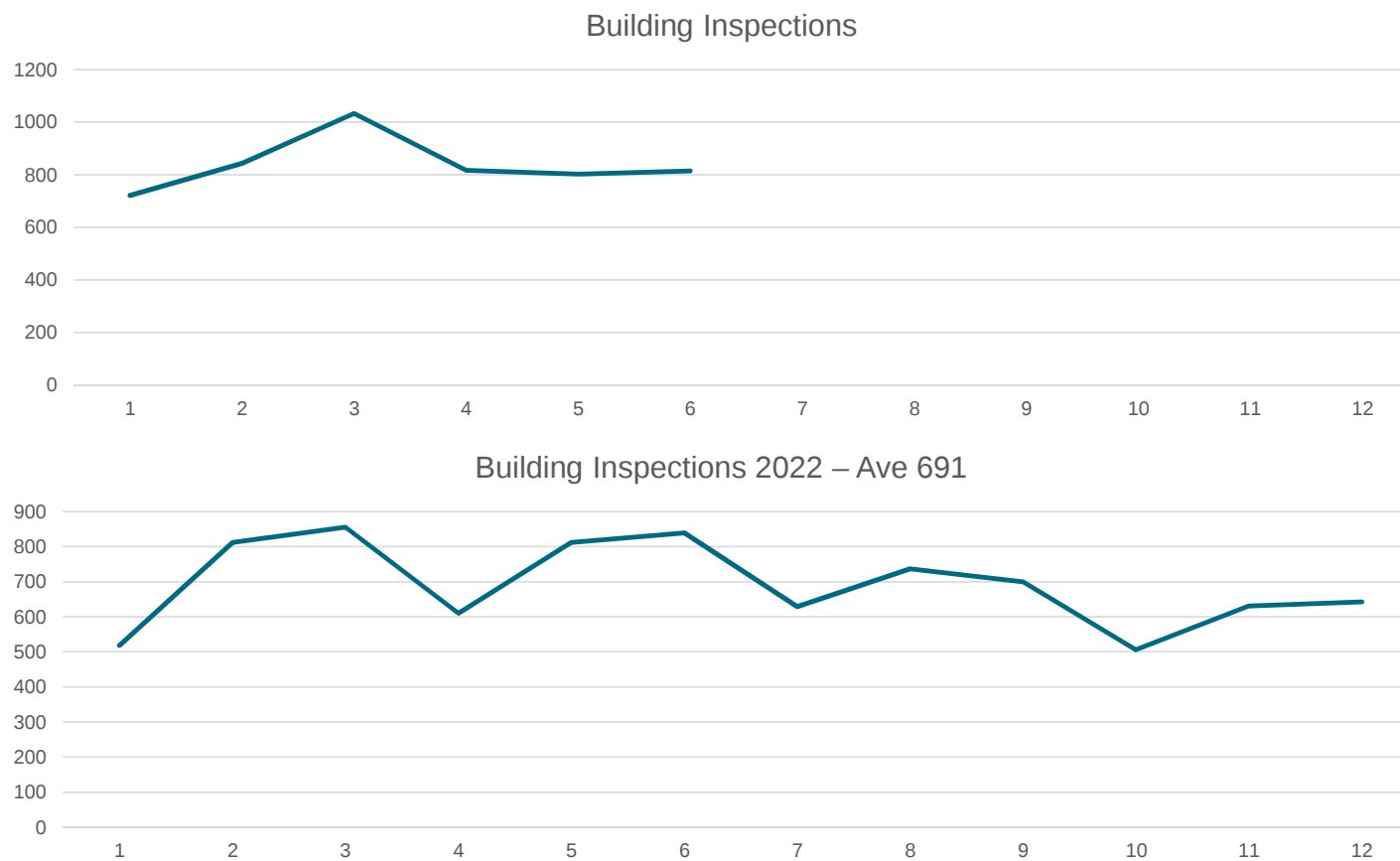
Planning: building permits for housing units: 20



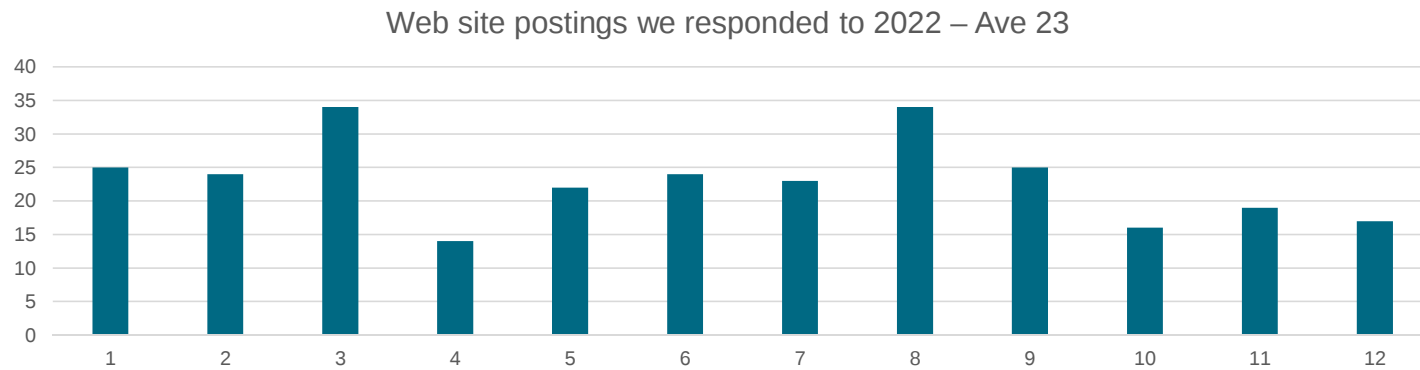
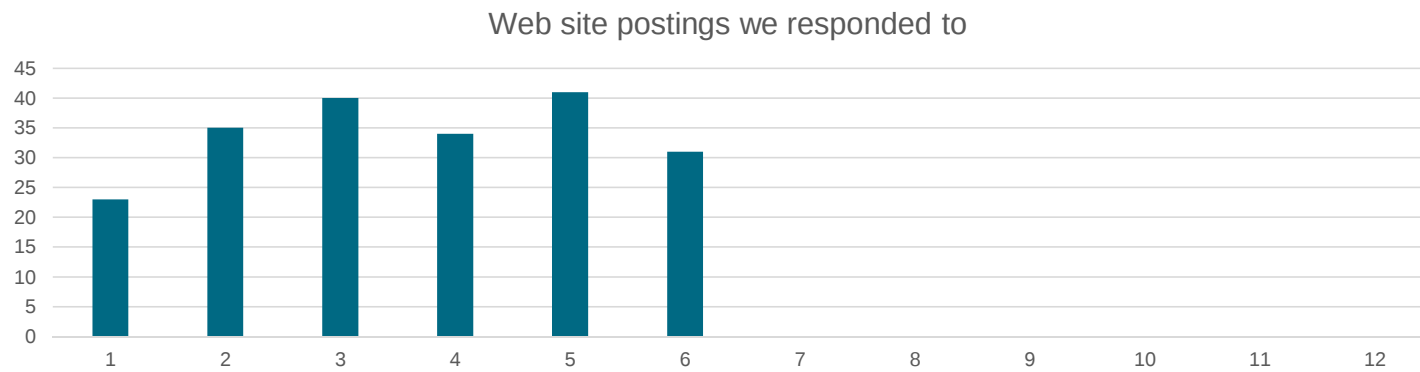
Planning: building permits other types: 153



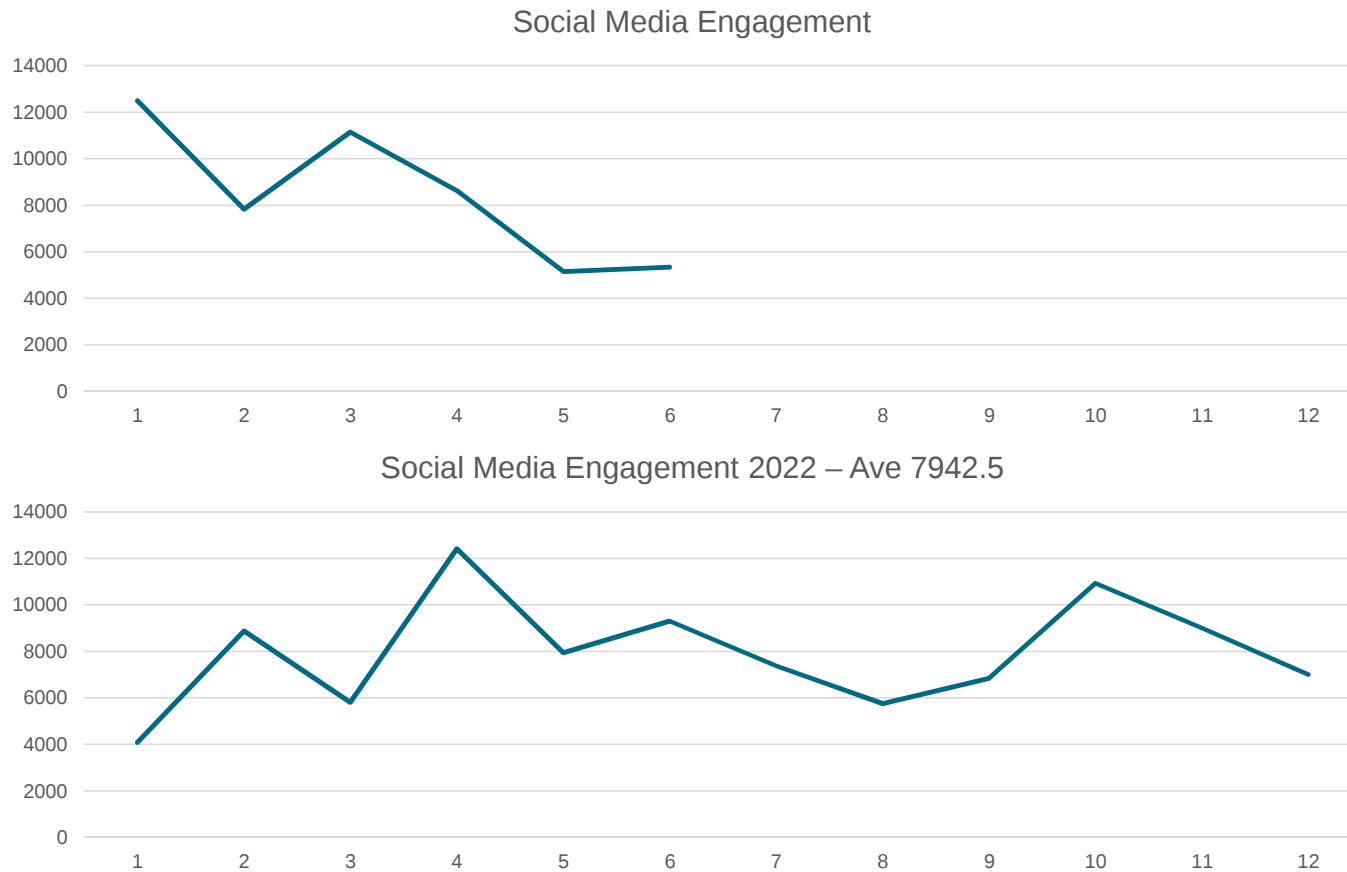
Planning: building inspections: 815



Community Engagement: submission forms through website: 31

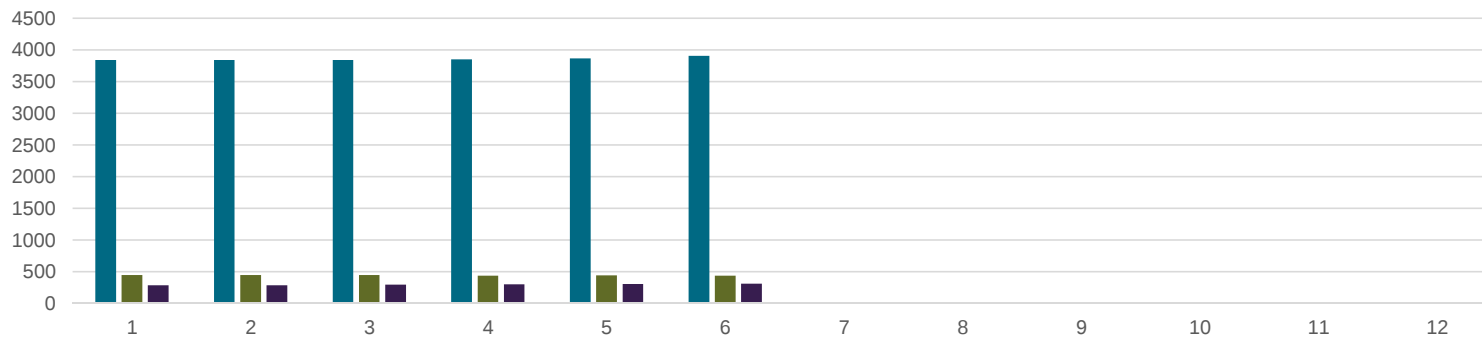


Community Engagement: social media engagement: 5332

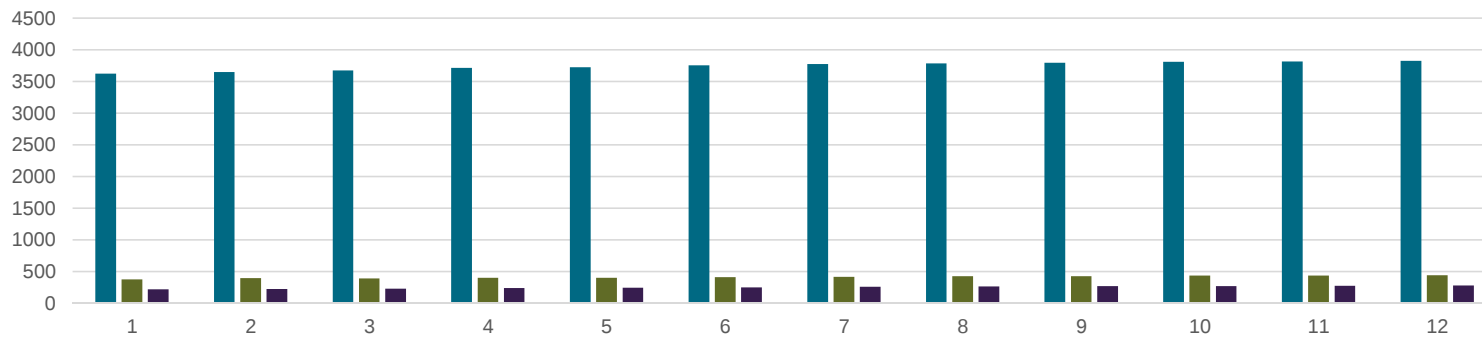


Community Engagement: social media followers Facebook 3910, Twitter 437, LinkedIn 314

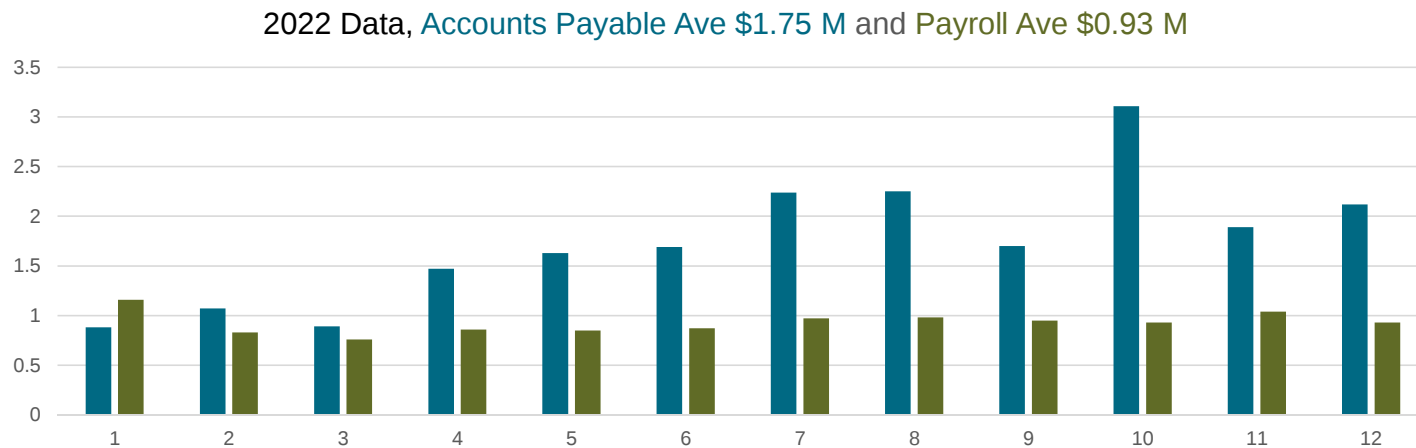
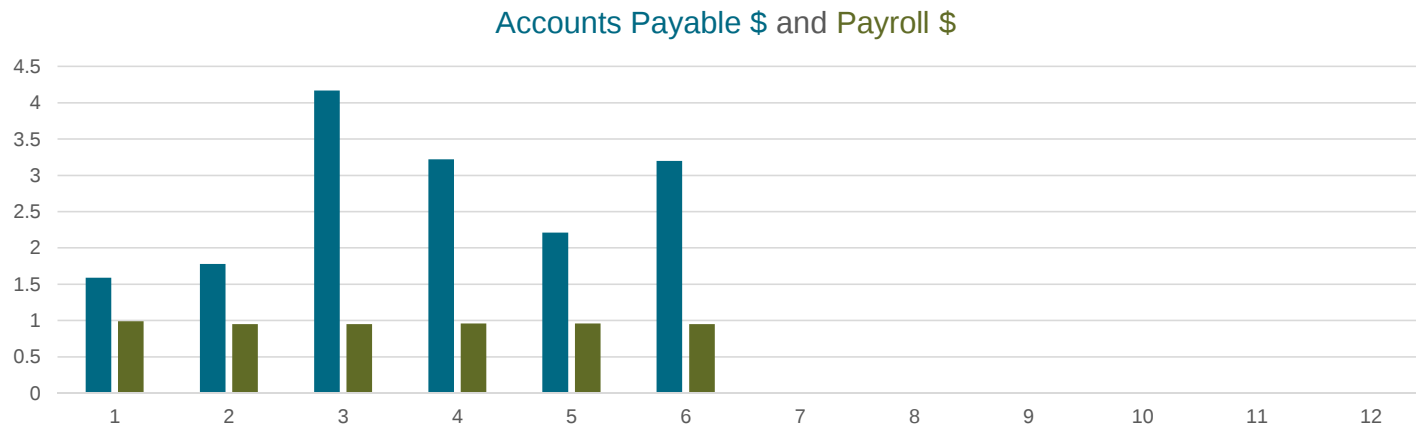
Facebook, Twitter, and LinkedIn



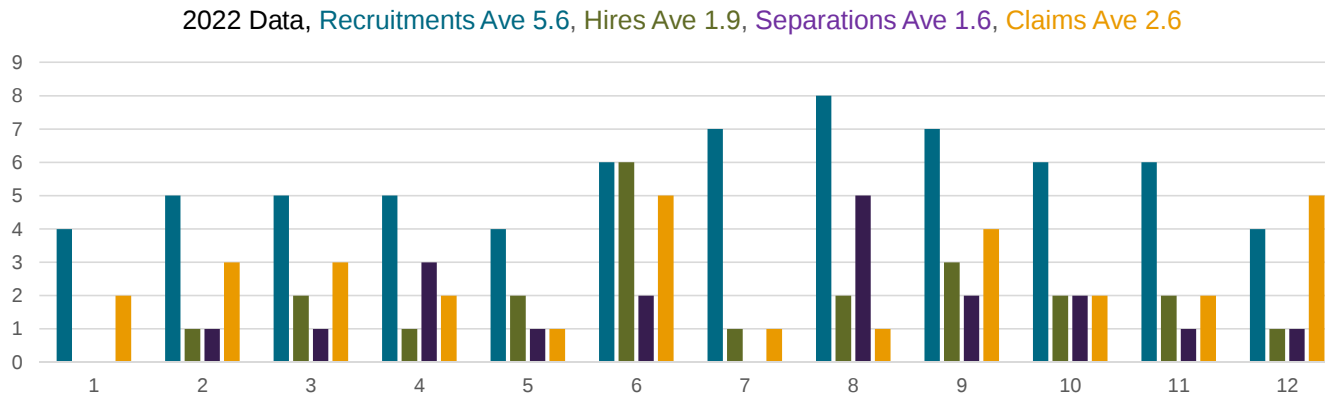
2022 data: Facebook Ave: 3746, Twitter Ave: 415, and LinkedIn Ave: 253.6



Finance: \$3.2M of payments to accounts payable & \$0.95M of payroll

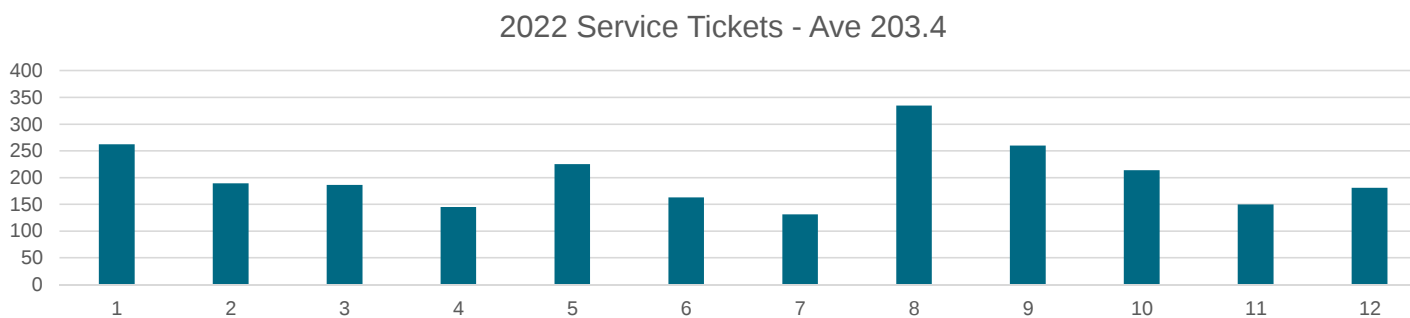
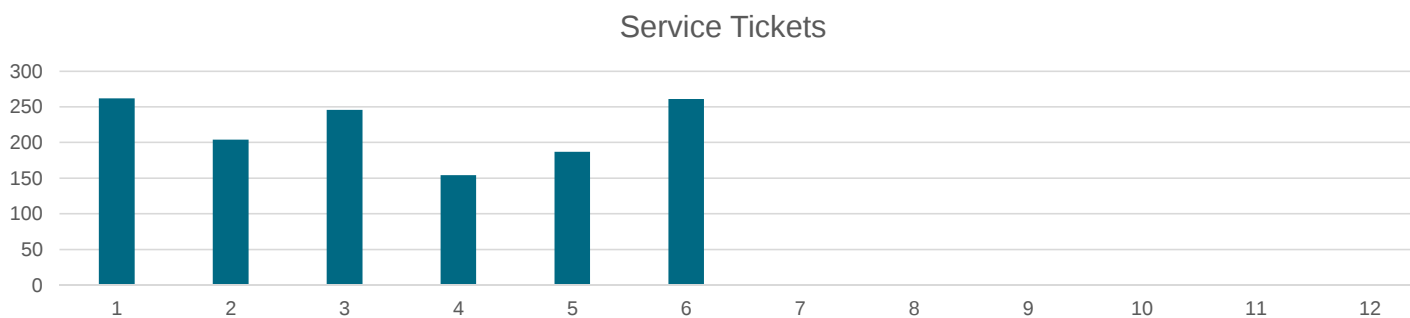


HR activity: recruitments advertised: 3 hires: 5 separations: 1,
FMLA / ADA / OFLA / workers comp claims: 5

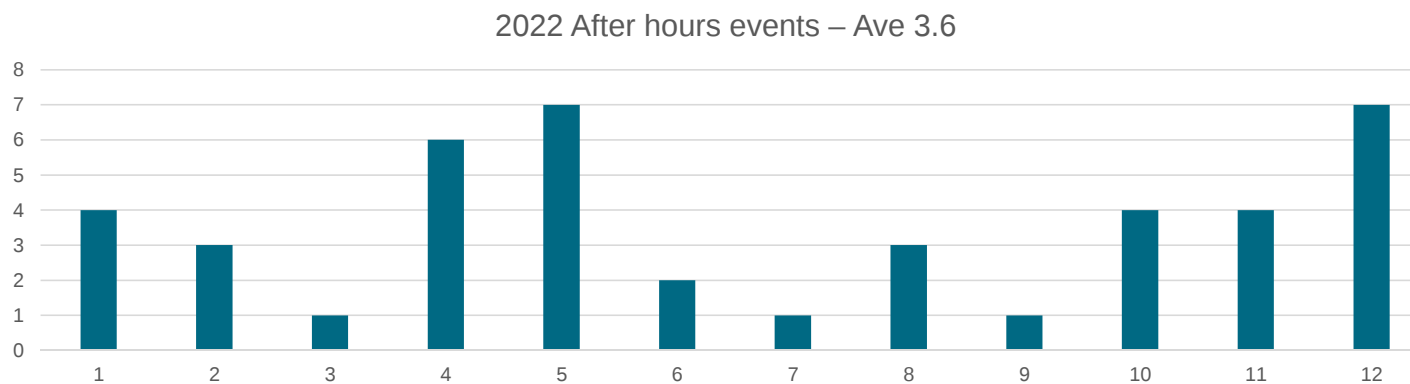




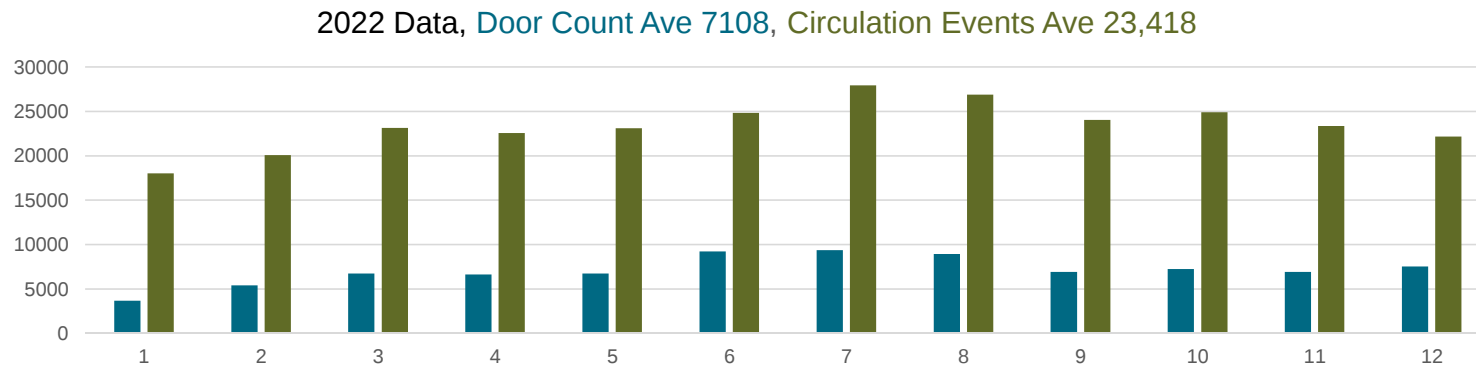
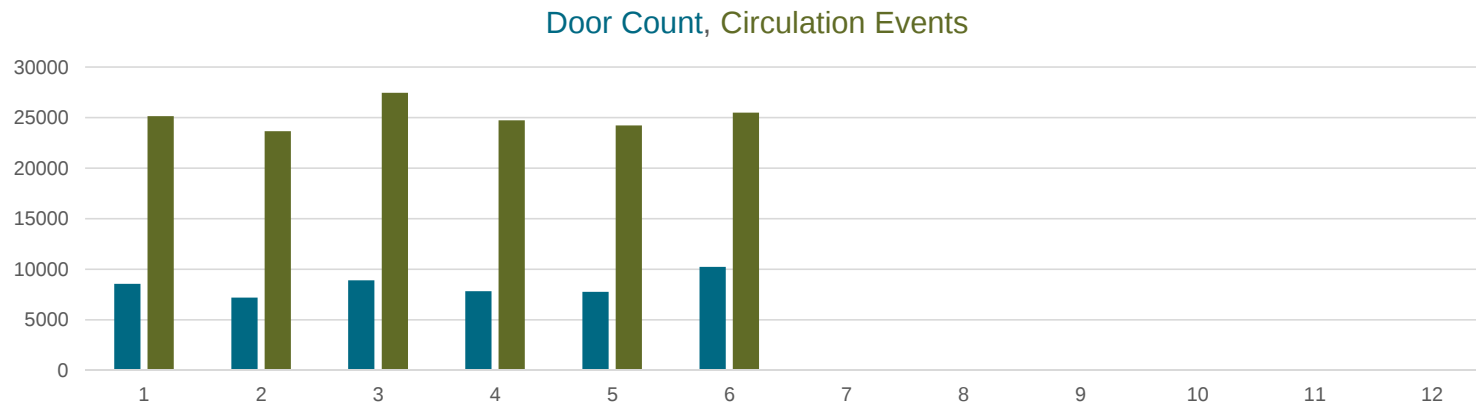
IT resolved 261 service tickets for the city.



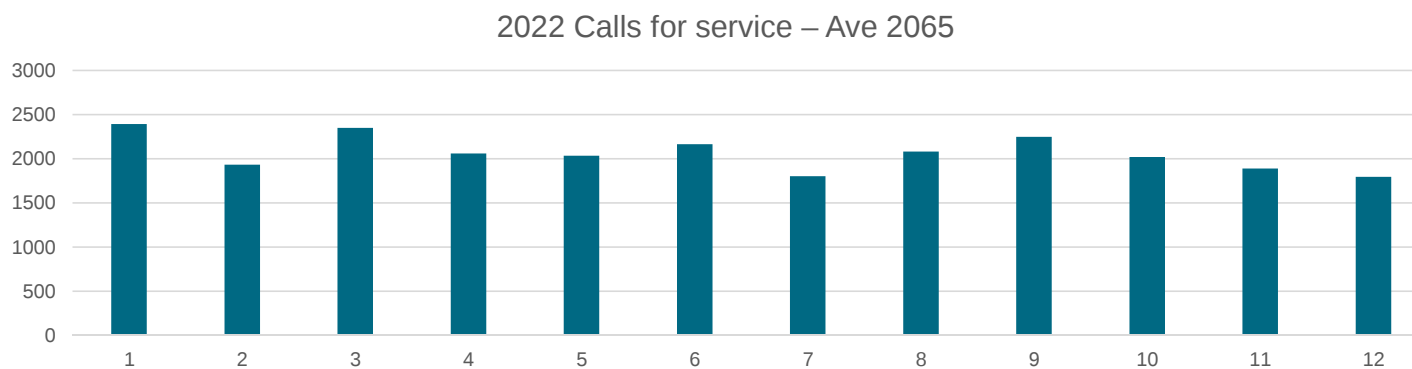
IT responded to 1 after hours on-call events.



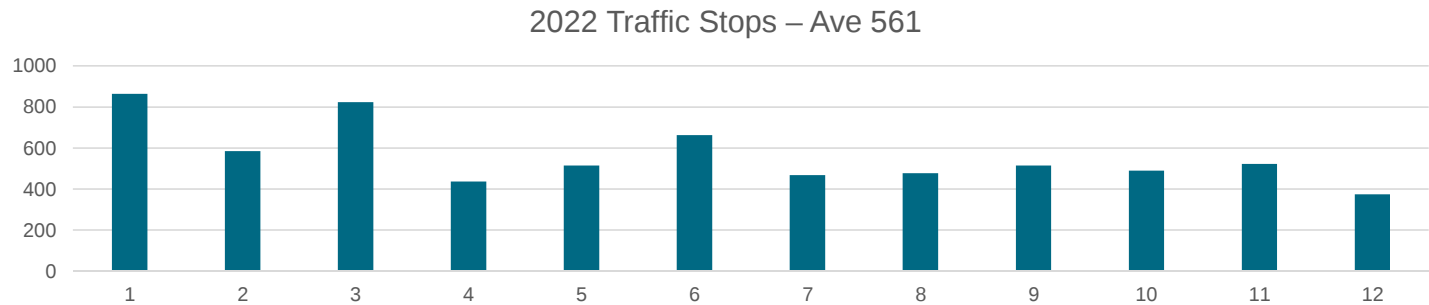
Library Activity: door count 10244, circulation events 25511



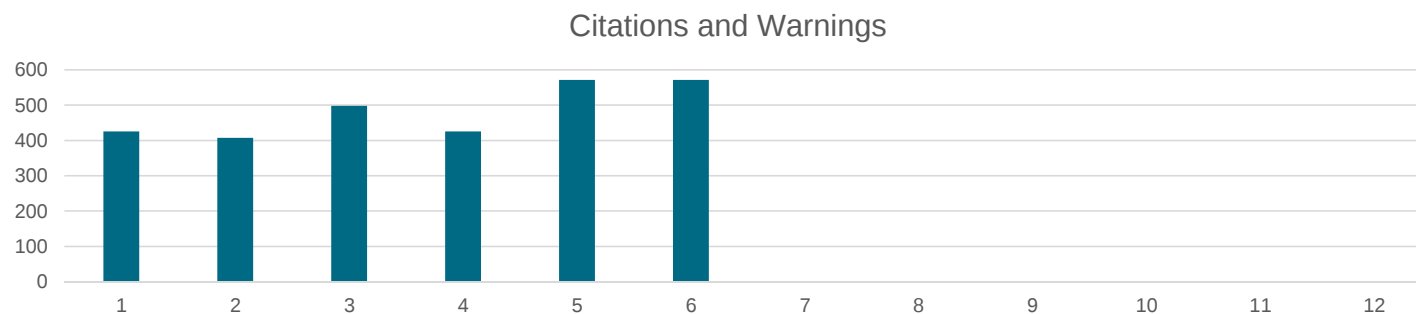
Public Safety: 2571 calls for service



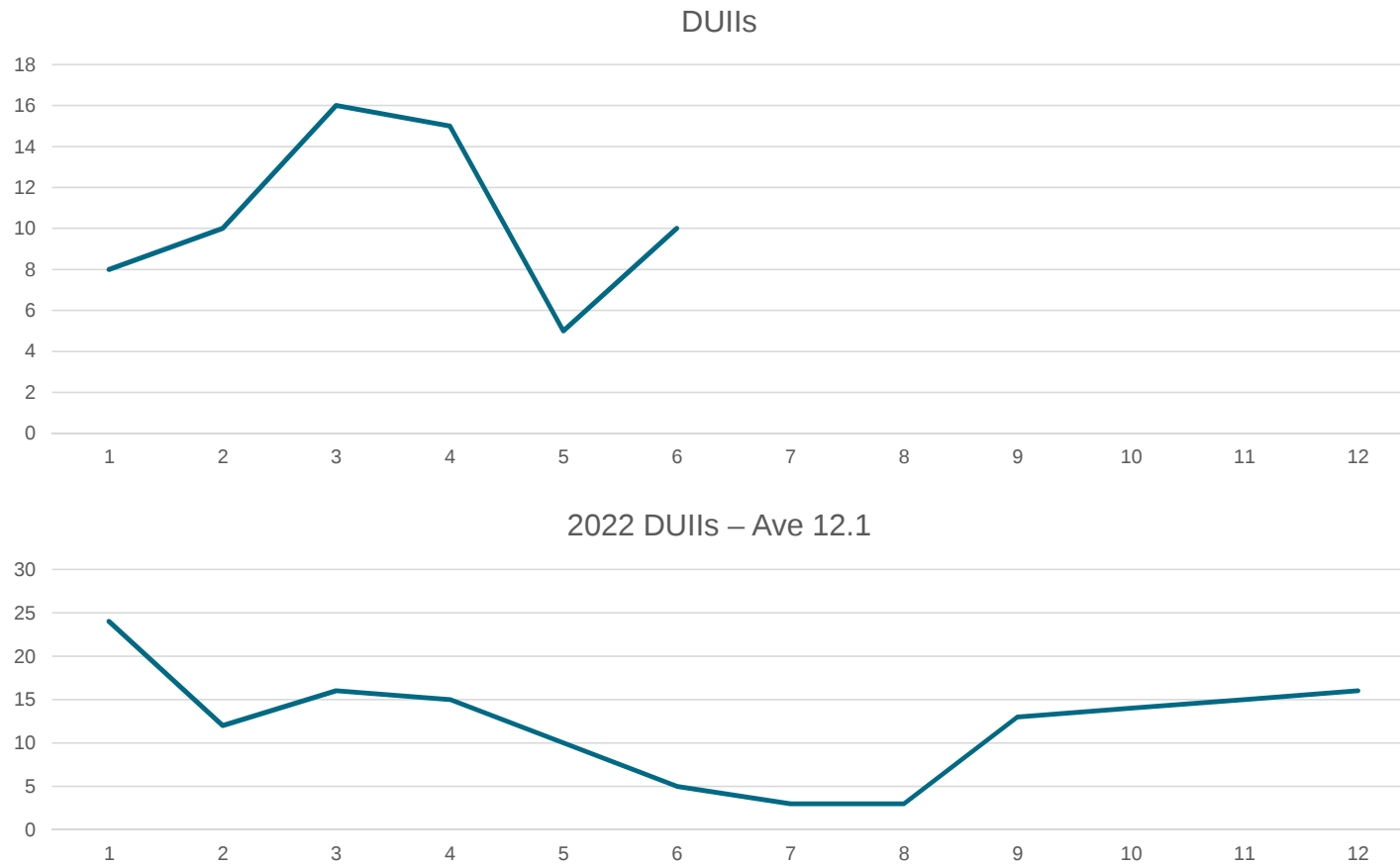
Public Safety: 679 – traffic stops



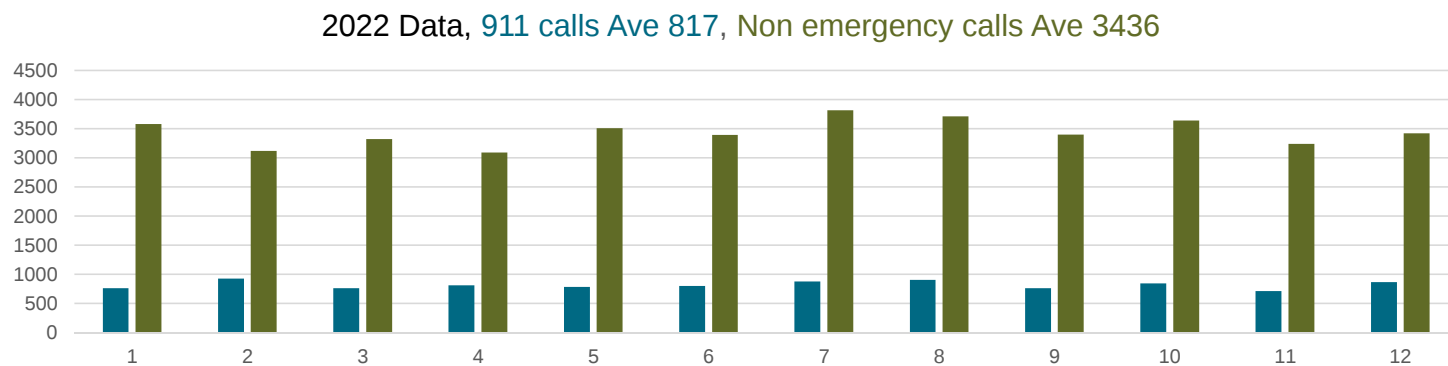
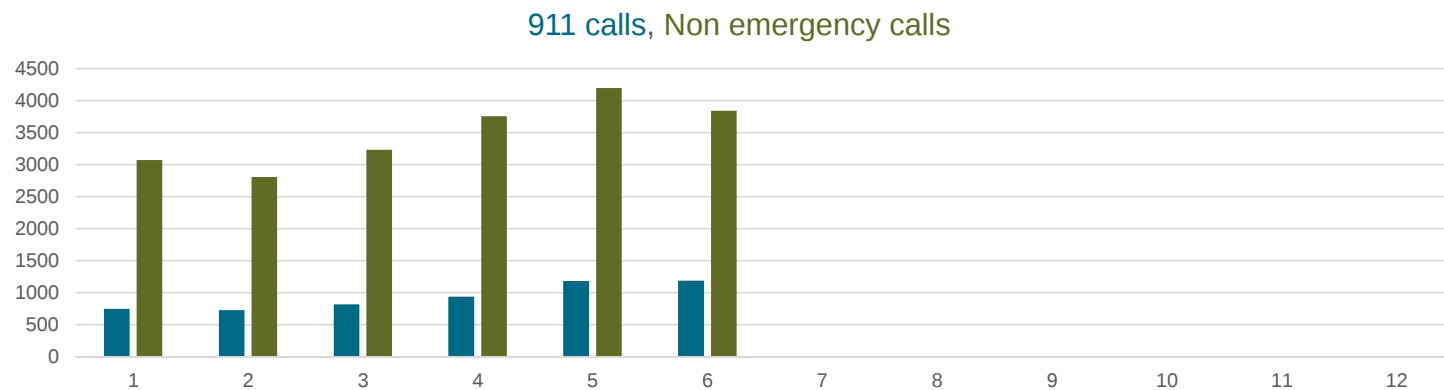
Public Safety: 571 – citations & warnings



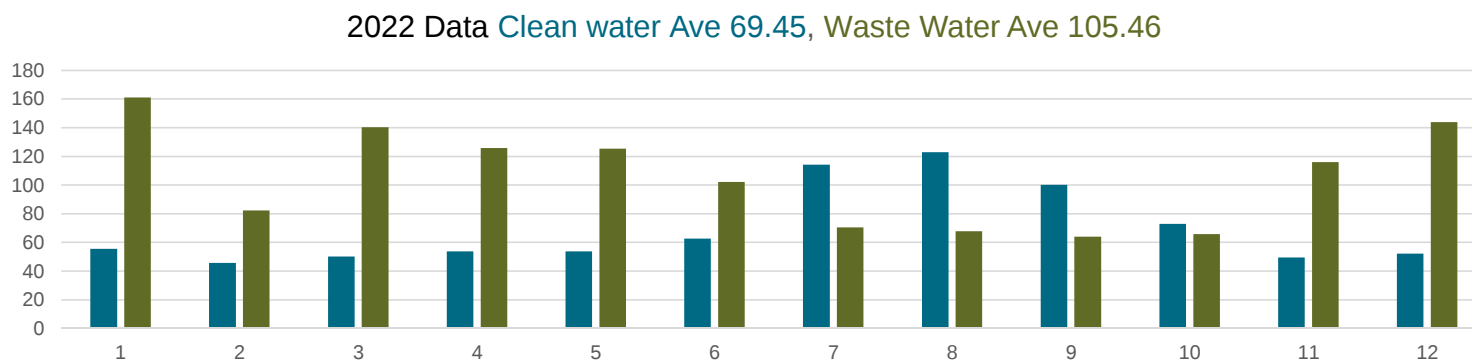
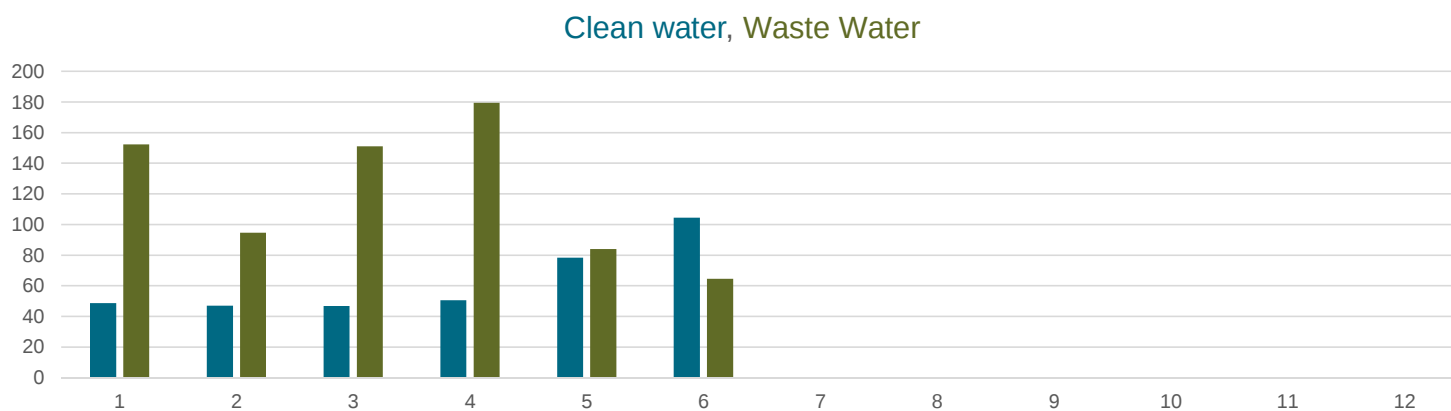
Public Safety: 10 – DUI's



Dispatch: 1190 - 911 calls & 3843 non-emergency calls

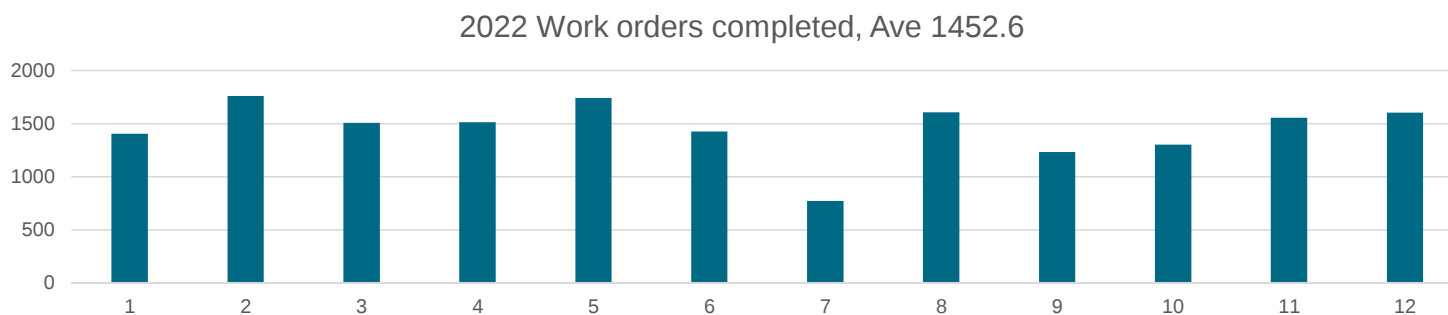
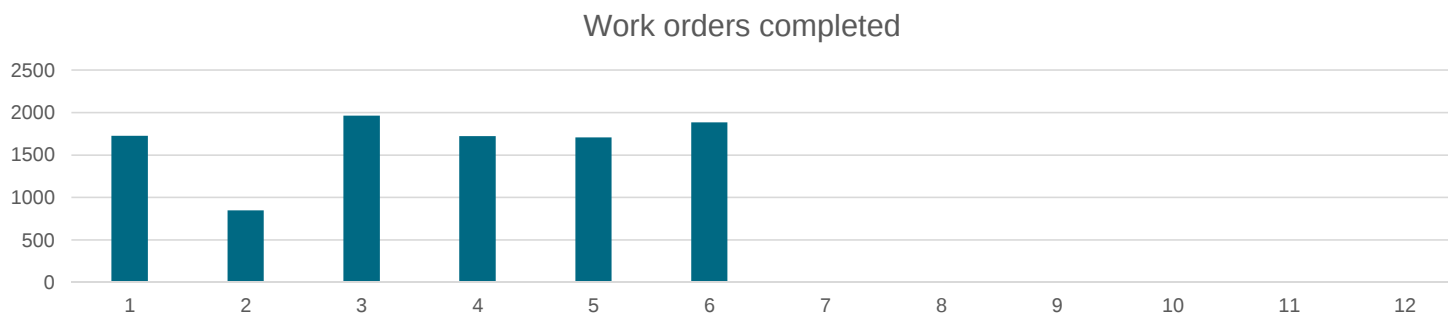


Public Works: water production was 104.5 million gallons,
& 64.438 million gallons (MG) were treated



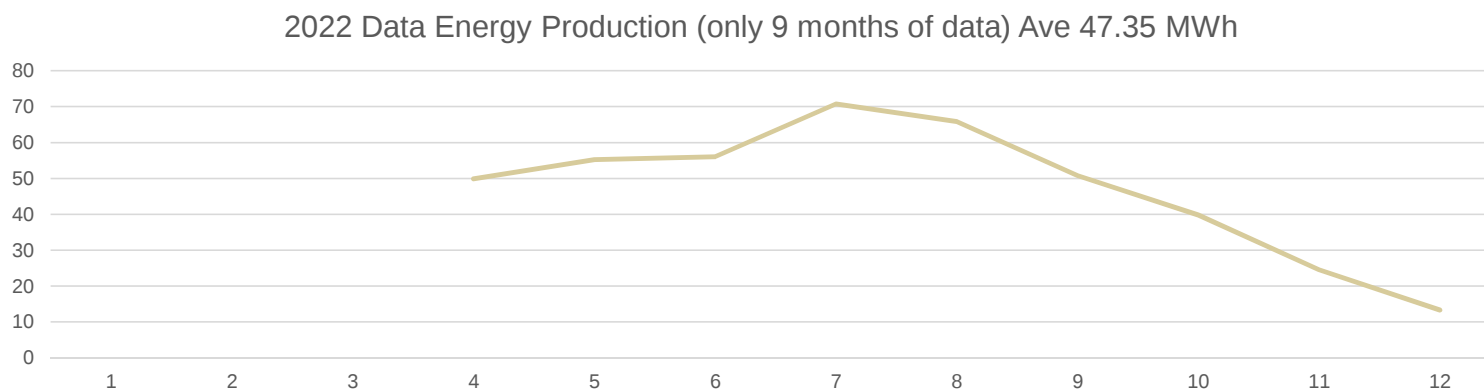
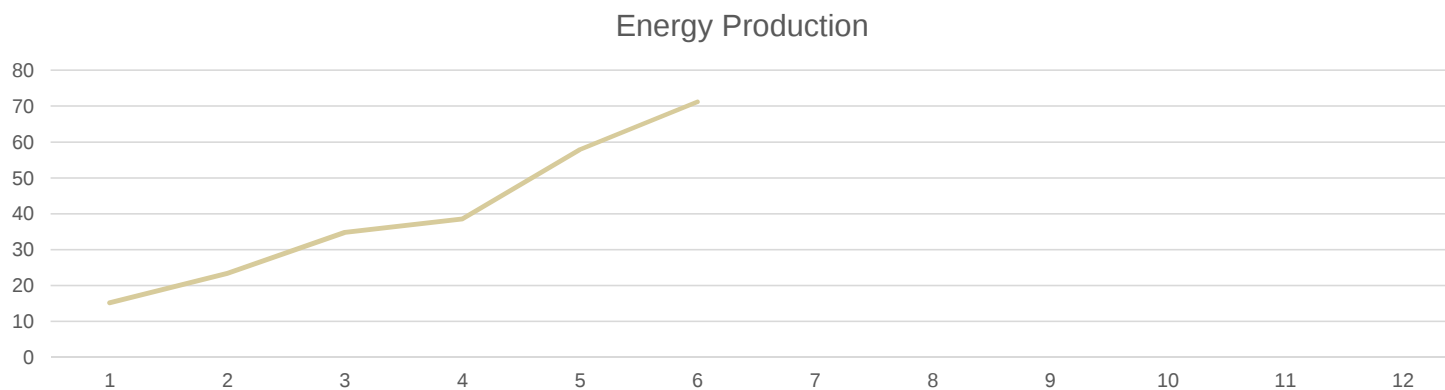


Public Works: 1884 work orders completed





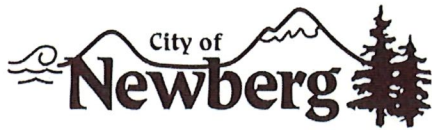
Public Works: 71.23 MWh of energy generated



So that's the totals to the end of June 2023!

Not for this month a nice low DUII number and also our highest energy generation number to date, no Surprise it has been quite “solar” lately.

Questions?



Committee/Commission: NEWBERG CITY COUNCIL

Meeting Date: 8/21/2023

☐ I will attend in person

☐ I will attend virtually & need the ZOOM link emailed to me.

PUBLIC COMMENT/TESTIMONY REGISTRATION FORM

Thank you for attending this public meeting – we value and appreciate your input. Please fill out this form so that we may better serve you and record your participation.

Note: If you are attending virtually, complete the form by noon the day of the meeting.

INSTRUCTIONS:

1. Complete all the information on this form and present it to the recorder prior to the start of the call of agenda item.
2. If you wish to testify on multiple agenda items, please fill out a separate form for each item.
3. Tips and guidelines for submitting oral/written comments are provided on the "How To Testify" brochure.
4. Please state your name prior to speaking (you do not need to state your address).
5. If you are attending virtually, send the forms to cityrecorder@newbergoregon.gov

PUBLIC TESTIMONY:

If you wish to testify/comment on an item that is specifically listed on the meeting agenda: Please identify the subject you wish to speak about by completing the following:

☐ Ordinance No. _____ ☐ Order No. _____ ☐ Work Session: _____
☐ Resolution No. _____ ☐ Agenda Item No. _____

I am a/the: ☐ Proponent ☐ Opponent ☐ Undecided ☐ Principal Proponent (Applicant)

☐ Subject: _____

PUBLIC COMMENT:

If you wish to comment on an item that is NOT specifically on the meeting agenda: Please check the box and indicate the subject you wish to speak about:

☒ Subject: NEWBERG EMERGENCY SHELTER

Note: There are time limits for oral comments and testimony.

By filling out this form, you may be entitled to written notification of any decision.

Please PRINT legibly:

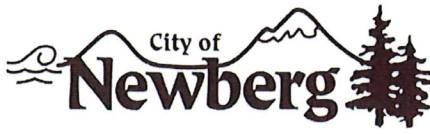
Name MATT BURN Phone Number 848-333-7232
(required) (optional)

Representing (if speaking on behalf of a third party) _____
(optional)

Mailing Address (including Zip Code) _____
(optional)

Email Address MATT@COMMUNITYWITNESSCOLLECTIVE.ORG
(optional)

☒ Please do not release my contact information in a public records request



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I am a/the: ☐ Proponent ☐ Opponent ☐ Undecided ☐ Principal Proponent (Applicant)

☒ Subject: Harvest House Support

PUBLIC COMMENT:

If you wish to comment on an item that is NOT specifically on the meeting agenda: Please check the box and indicate the subject you wish to speak about:

☐ Subject: _____

Note: There are time limits for oral comments and testimony.

By filling out this form, you may be entitled to written notification of any decision.

Please PRINT legibly:

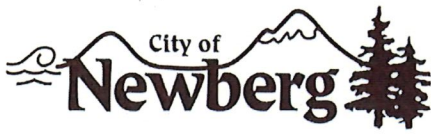
Name Gerry Pruyn Phone Number _____
(required) (optional)

Representing (if speaking on behalf of a third party) _____
(optional)

Mailing Address (including Zip Code) _____
(optional)

Email Address _____
(optional)

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Meeting Date: 8/21/2023

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I am a/the: ☐ Proponent ☐ Opponent ☐ Undecided ☐ Principal Proponent (Applicant)

☐ Subject: _____

PUBLIC COMMENT:

If you wish to comment on an item that is NOT specifically on the meeting agenda: Please check the box and indicate the subject you wish to speak about:

☒ Subject: Newberg Emergency Shelter

Note: There are time limits for oral comments and testimony.

By filling out this form, you may be entitled to written notification of any decision.

Please PRINT legibly:

Name Rebecca Wallis Phone Number _____
(required) (optional)

Representing (if speaking on behalf of a third party) _____
(optional)

Mailing Address (including Zip Code) _____
(optional)

Email Address _____
(optional)

☐ Please do not release my contact information in a public records request

REQUEST FOR COUNCIL ACTION



Date Action Requested: August 21, 2023

Order ☐	Ordinance ☐	Resolution ☐	Motion ☐	Information ☒
Subject: Urban Growth Boundary Processes			Staff: Doug Rux, Director Department: Community Development File No.	
Work Session ☒ Business Session ☐			Order On Agenda: Presentations	

Is this item state mandated? Yes ☐ No ☒

If yes, please cite the state house bill or order that necessitated this action:

Recommendation:

Information only.

Executive Summary:

Mayor Rosacker requested a briefing on Urban Growth Boundary (UGB) processes and options. The attached Power Point outlines various options to expand the UGB.

The information contains:

1. Background information
 - a. UGB History
 - b. Urban Reserve History
 - c. Newberg 2030
 - d. Housing Needs Analysis/Economic Opportunities Analysis/Public – Semi Public Land Analysis
 - e. Population Forecast
 - f. Statewide Planning Goal 14
 - g. ORS 197
 - h. OAR Chapter 660 Division 24 Traditional UGB Method
 - i. OAR 660 Division 25 Sequential UGB Method
2. Options
3. Risks / Rewards for the various options
4. Concept Planning
5. Oregon Chips Act

Fiscal Impact:

Future expenditures for consultant services. FY 23/24 has budgeted for Urban Growth Boundary (UGB) Expansion Consultant - \$350,000; Consultant Services Housing Needs Analysis (HNA) Appeal - \$5,500; Consultant Services Economic Opportunities Analysis (EOA) - \$5,500. The UGB Expansion Consultant expense budget is an initial amount and is anticipated to increase based on the identified approach to expanding the UGB.

Council Goals:

Goal 2: Identify industrial land and attract employers to encourage family wage jobs.

Objective 2. Work to bring land into the urban growth boundary to zone for light manufacturing within 5 years.

Goal 7: Increase land availability for housing.

Objective 2. Work to bring land into the urban growth boundary to zone for residential purposes within 5 years.

Attachments: 1. Power Point
 2. Goal 14
 3. Division 24
 4. Division 25
 5. Senate Bill 4

Urban Growth Boundary Processes

City Council Briefing
August 21, 2023

Overview

- Background information
- Options
- Risks / Rewards

City Council Goals

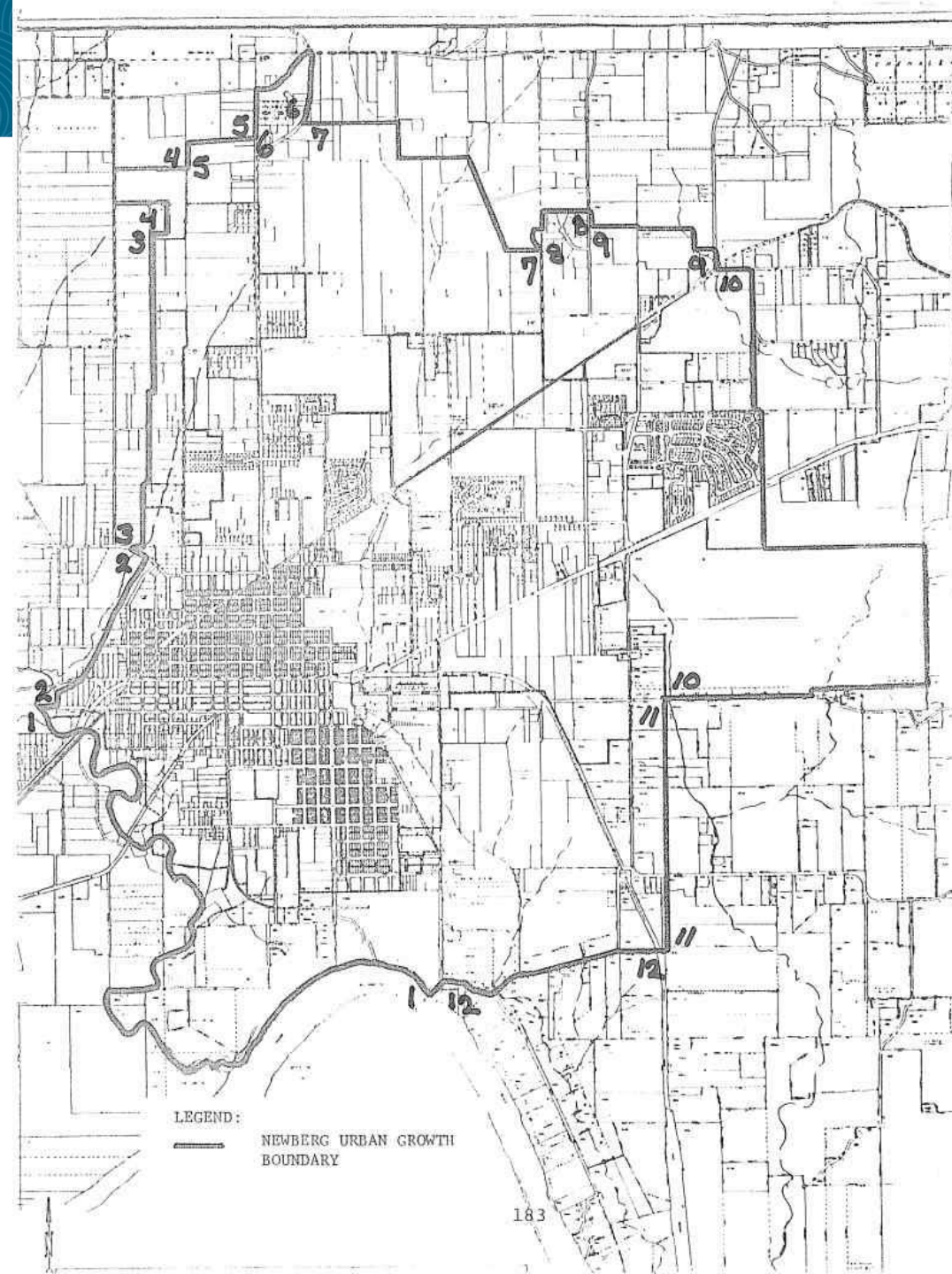
G2 - Identify industrial land and attract employers to encourage family wage jobs.

2. Work to bring land into the urban growth boundary to zone for light manufacturing within 5 years.

G7 - Increase land availability for housing.

2. Work to bring land into the urban growth boundary to zone for residential purposes within 5 years.

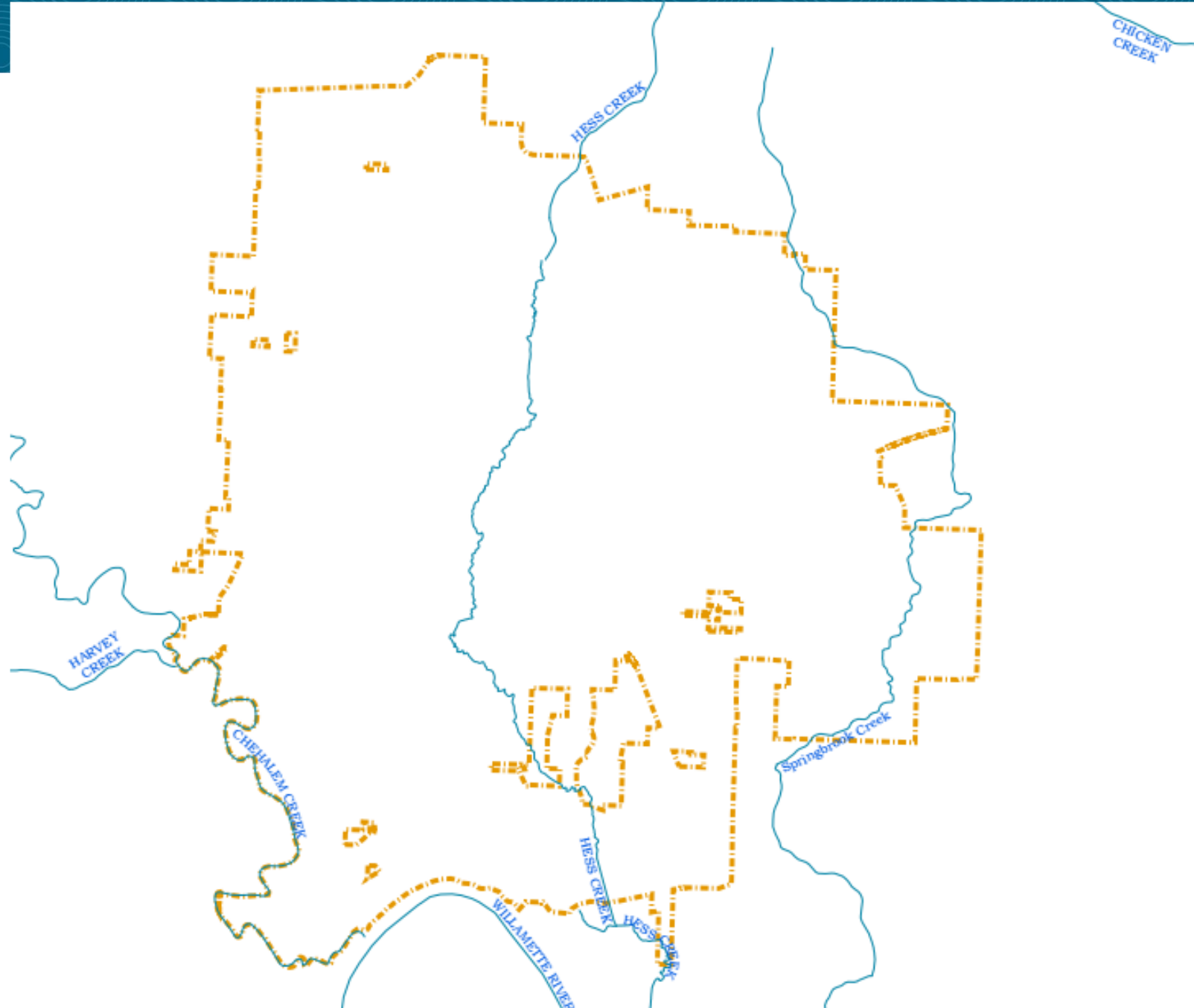
UGB 1979



UGB Amendments

- Three (3) UGB expansions between 1979 and 1993
- 1995 Urban Reserve Areas (URAs) established
- 1997 – 2009 Eighteen (18) UGB expansion applications within URAs
- Seventeen (17) approved and One (1) denied locally
- Two (2) remanded by DLCD / One revised and One withdrawn

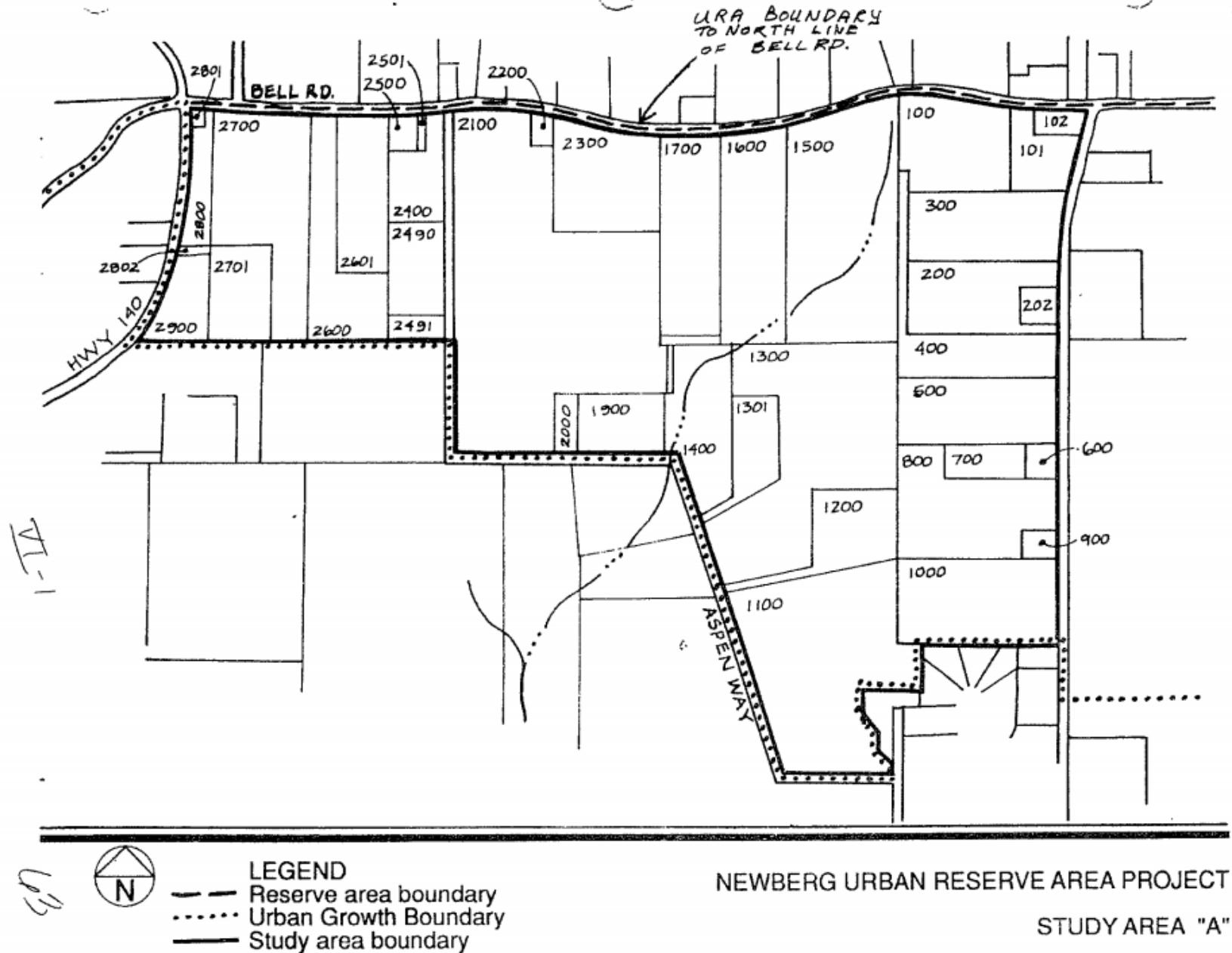
UGB
2023
(brown
line)



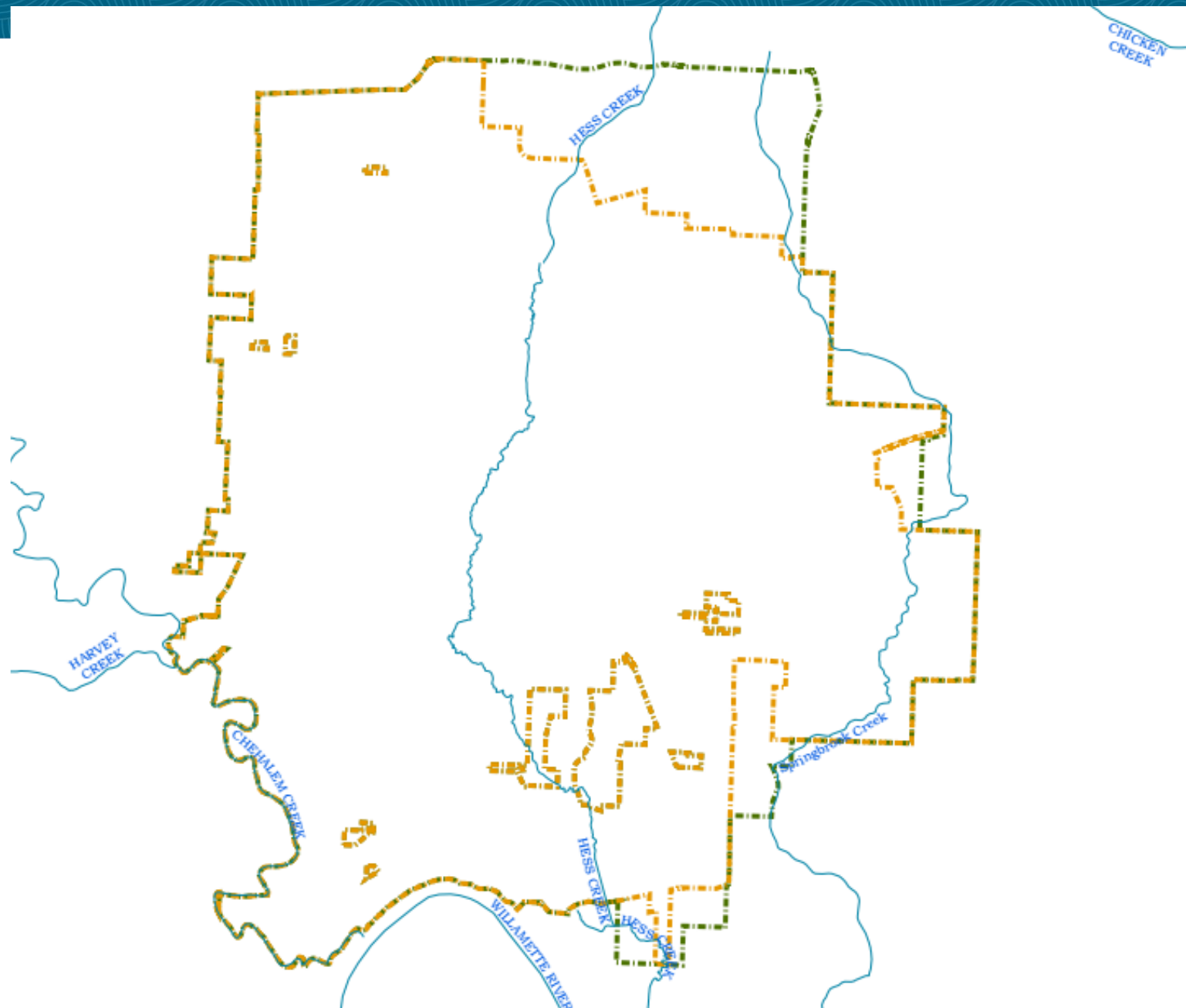
Urban Reserves

- 1995 Urban Reserve Areas (URAs) established
- Four (4) applications to expand URAs
- Two (2) approved and Two (2) denied locally
- One (1) remanded by DLCD / and One request withdrawn by City
- One (1) awaiting DLCD review and determination (Bellairs/Bestwick)

Urban Reserve Area (example)



Urban Reserve Area 2023 (green line)

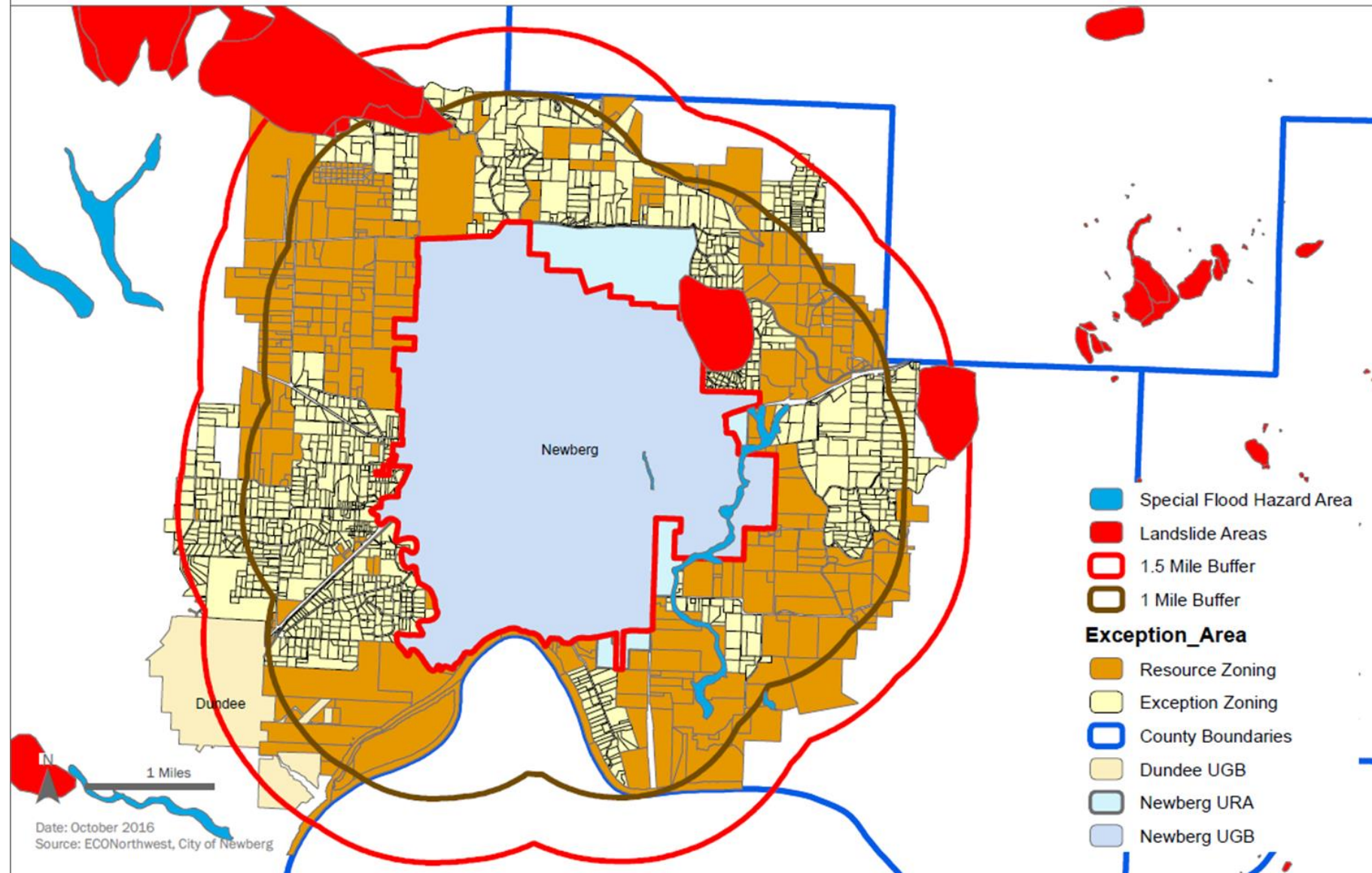


Newberg 2030

- Phase 1 ()
- Public outreach and survey activities
- Phase II – DLCD Grant ()
- Simplified UGB Method
- Program did not work and terminated grant
- Presented to Council options on July 19, 2021

NEWBERG BLI 2016

Newberg Study Area Buffers, Zoning and Exclusion Areas



HNA / EOA / PSP

- 2019 Housing Needs Analysis (HNA)
- 2021 Housing Needs Analysis (HNA) Update #1
- 2021 Housing Needs Analysis (HNA) Update #2
- 2021 Economic Opportunities Analysis (EOA)
- 2021 Public/Semi-Public Land Needs Analysis (PSP)
- HNA/EOA/PSP Comprehensive Plan Changes – submitted to DLCD August 2022 - They objected to process

City of Newberg Housing Needs Analysis

June 2021

Prepared for:
City of Newberg

REPORT UPDATE

ECONorthwest
ECONOMICS • FINANCE • PLANNING

KON Center
222 SW Columbia Street
Suite 1600
Portland, OR 97201
503.222.6060

City of Newberg Economic Opportunities Analysis

March 2021

Prepared for:
City of Newberg

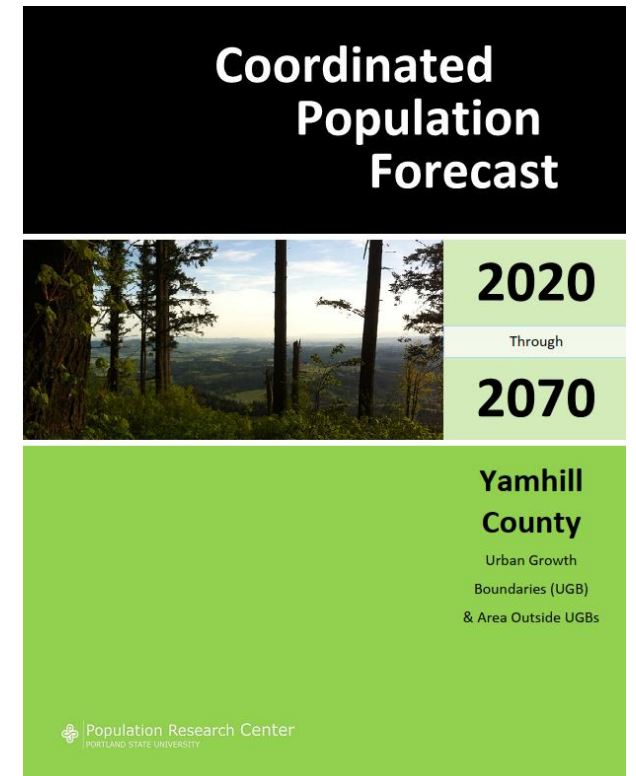
Final Report

ECONorthwest
ECONOMICS • FINANCE • PLANNING

KON Center
222 SW Columbia Street
Suite 1600
Portland, OR 97201
503.222.6060

Population Forecast – PSU/PRC

- Coordinated Population Forecast 2017- 2067
- Coordinated Population Forecast 2020- 2070
- Next Forecast 2024
- Have to use in HNA/EOA/PSP documents



Statewide Planning Goal 14

- Urban Growth Boundaries
- Land Need
- Boundary Location
- Urbanizable Land
- Unincorporated Communities
- Single-Family Dwellings in Exception Areas
- GUIDELINES

ORS 197

- ORS 197 - Comprehensive Land Use Planning I
- URBAN GROWTH BOUNDARIES AND NEEDED HOUSING WITHIN BOUNDARIES
- POST-ACKNOWLEDGMENT PROCEDURES
- Chapter 197A — Comprehensive Land Use Planning II
- AMENDMENT OF URBAN GROWTH BOUNDARIES OUTSIDE METRO

OAR Chapter 660 Division 24 Traditional UGB Method

- 660-024-0000 Purpose and Applicability
- 660-024-0010 Definitions
- 660-024-0040 Land Need
- 660-024-0050 Land Inventory and Response to Deficiency
- 660-024-0065 Establishment of Study Area to Evaluate Land for Inclusion in the UGB
- 660-024-0067 Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities
- 660-024-0070 UGB Adjustments
- 660-024-0080 LCDC Review Required for UGB Amendments

OAR 660 Division 25 Sequential UGB Method

- Process for Division 24 used +
- Division 25 Periodic Review
- Allows a work program with approval from DLCD to move through the Division 24 process on a set schedule of tasks
- Process has not been attempted by a city in Oregon

Options

1. Expand Urban Reserves then expand UGB through Divisions 24 or 24 + 25
2. Expand UGB using Division 24 Traditional Method
3. Expand UGB using Division 24 Traditional Method + Division 25 Periodic Review (Sequential process)

Risks / Rewards – Urban Reserve Area

Risks:

1. Several year process before starting UGB process
2. Last City attempt was not successful
3. URAs may end up west of the current UGB complicating transportation through Downtown
4. Objectors could challenge not using new Population forecast to occur in 2024

Rewards:

1. Have prior material to build on from past URA activities (City and Bellairs)
2. Could make it easier to expand UGB for industrial land

Risks / Rewards – Division 24 UGB

Risks:

1. HNA has to be imbedded in UGB process and could be appealed at end of UGB process nullifying the UGB work – spent \$ and unsuccessful
2. EOA has to be adopted by Ordinance and could be appealed
3. PSP has to be adopted by Ordinance and could be appealed
4. UGB expansion decision could be west of current UGB on Exception Land for industrial complicating transportation through Downtown
5. Objectors could challenge not using new Population Forecast from 2024

Risks / Rewards – Division 24 UGB

Risks:

6. Process is time intensive and costly

Risks / Rewards – Division 24 UGB

Rewards:

1. Fulfills Council Goals
2. Addresses deficiency in land need for Medium & High Density Residential land
3. Addresses deficiency in land need for Industrial land

Risks / Rewards – Division 24 UGB + Division 25

Risks:

1. Process has never been attempted in Oregon
2. HNA would be adopted by Ordinance and could be appealed
3. EOA would be adopted by Ordinance and could be appealed
4. PSP would be adopted by Ordinance and could be appealed
5. UGB expansion decision could be west of current UGB on Exception Land for industrial uses complicating transportation through Downtown

Risks / Rewards – Division 24 UGB + Division 25

Risks:

6. Are bound to a work program schedule with DLCD
7. Objectors could challenge not using new Population forecast from 2024
8. Process is time intensive and costly

Risks / Rewards – Division 24 UGB + Division 25

Rewards:

1. Know up front if HNA/EOA/PSP is problematic and appealed
2. Can fix HNA/EOA/PSP if deficiencies are identified
3. If no deficiencies are identified locks in the HNA/EOA/PSP before further work is done on UGB expansion
4. Fulfills Council Goals
5. Addresses deficiency in land need for Medium & High Density Residential land
6. Addresses deficiency in land need for Industrial land

Concept Planning

- If UGB expansion is successful need to concept plan the expansion area(s)

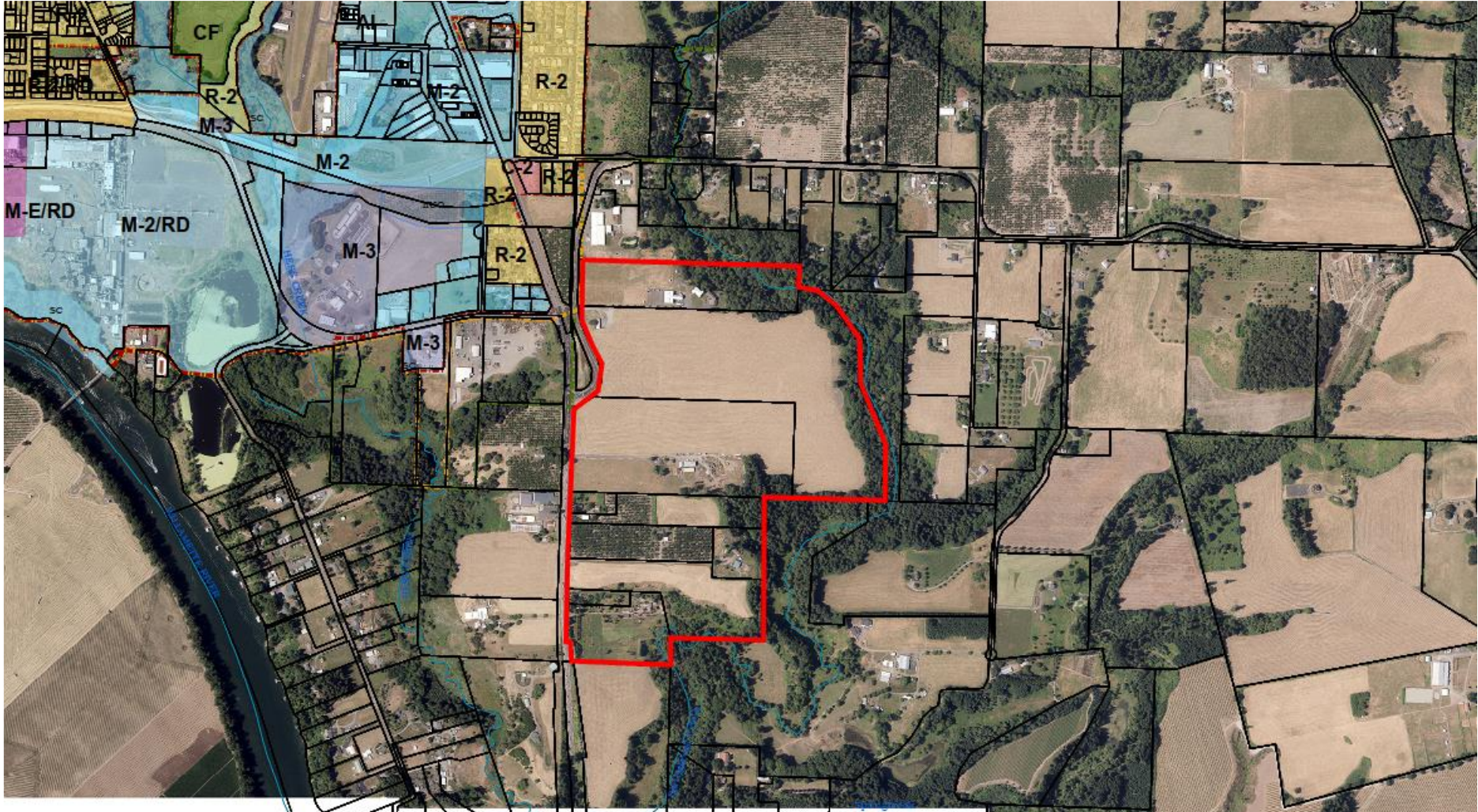
Oregon Chips Act

- Senate Bill 4
- Section 10 – Provision for Governor to bring land into a UGB by Executive Order in conformance with the legislation
- Maximum of eight (8) sites
- Two sites exceeding 500 acres
- Six sites that do not exceed 500 acres

Oregon Chips Act

Possible
Location -
184 acres

10 property
owners



QUESTIONS

Oregon's Statewide Planning Goals & Guidelines

GOAL 14: URBANIZATION

OAR 660-015-0000(14)

(Effective January 1, 2016)

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments.

An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

- (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments, or for cities applying the simplified process under ORS chapter 197A, a 14-year forecast; and
- (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2). In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197A.320 or, for the Metropolitan Service District, ORS 197.298, and with consideration of the following factors:

- (1) Efficient accommodation of identified land needs;
- 2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Urbanizable Land

Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

Unincorporated Communities

In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14, either by exception to those goals, or as provided by commission rules which ensure such uses do not adversely affect agricultural and forest operations and interfere with the efficient functioning of urban growth boundaries.

Single-Family Dwellings in Exception Areas

Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that:

- (a) Was lawfully created;
- (b) Lies outside any acknowledged urban growth boundary or unincorporated community boundary;
- (c) Is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and
- (d) Is planned and zoned primarily for residential use.

Rural Industrial Development

Notwithstanding other provisions of this goal restricting urban uses on rural land, a county may authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, on certain lands outside urban growth boundaries specified in ORS 197.713 and 197.714, consistent with the

requirements of those statutes and any applicable administrative rules adopted by the Commission.

GUIDELINES

A. PLANNING

1. Plans should designate sufficient amounts of urbanizable land to accommodate the need for further urban expansion, taking into account (1) the growth policy of the area; (2) the needs of the forecast population; (3) the carrying capacity of the planning area; and (4) open space and recreational needs.
2. The size of the parcels of urbanizable land that are converted to urban land should be of adequate dimension so as to maximize the utility of the land resource and enable the logical and efficient extension of services to such parcels.
3. Plans providing for the transition from rural to urban land use should take into consideration as to a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
4. Comprehensive plans and implementing measures for land inside urban growth boundaries should encourage the efficient use of land and the development of livable communities.

B. IMPLEMENTATION

1. The type, location and phasing of public facilities and services are factors which should be utilized to direct urban expansion.
 2. The type, design, phasing and location of major public transportation facilities (i.e., all modes: air, marine, rail, mass transit, highways, bicycle and pedestrian) and improvements thereto are factors which should be utilized to support urban expansion into urbanizable areas and restrict it from rural areas.
 3. Financial incentives should be provided to assist in maintaining the use and character of lands adjacent to urbanizable areas.
 4. Local land use controls and ordinances should be mutually supporting, adopted and enforced to integrate the type, timing and location of public facilities and services in a manner to accommodate increased public demands as urbanizable lands become more urbanized.
 5. Additional methods and devices for guiding urban land use should include but not be limited to the following: (1) tax incentives and disincentives; (2) multiple use and joint development practices; (3) fee and less-than-fee acquisition techniques; and (4) capital improvement programming.
 6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.
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Land Conservation and Development Department

Chapter 660

Division 24

URBAN GROWTH BOUNDARIES

660-024-0000

Purpose and Applicability

(1) The rules in this division clarify procedures and requirements of Goal 14 regarding a local government adoption or amendment of an urban growth boundary (UGB). The rules in this division do not apply to the simplified UGB process under OAR chapter 660, division 38.

(2) The rules in this division interpret Goal 14 as amended by the Land Conservation and Development Commission (LCDC or commission) on or after April 28, 2005, and are not applicable to plan amendments or land use decisions governed by previous versions of Goal 14 still in effect.

(3) The rules in this division adopted on October 5, 2006, are effective April 5, 2007. The rules in this division amended on March 20, 2008, are effective April 18, 2008. The rules in this division adopted March 13, 2009, and amendments to rules in this division adopted on that date, are effective April 16, 2009, except as follows:

(a) A local government may choose to not apply this division to a plan amendment concerning the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local government initiated the evaluation or amendment of the UGB prior to April 5, 2007;

(b) For purposes of this rule, "initiated" means that the local government either:

(A) Issued the public notice specified in OAR 660-018-0020 for the proposed plan amendment concerning the evaluation or amendment of the UGB; or

(B) Received LCDC approval of a periodic review work program that includes a work task to evaluate the UGB land supply or amend the UGB;

(c) A local government choice whether to apply this division must include the entire division and may not differ with respect to individual rules in the division.

(4) The rules in this division adopted on December 4, 2015, are effective January 1, 2016, except that a local government may choose to not apply the amendments to rules in this division adopted December 4, 2015 to a plan amendment concerning the amendment of a UGB, regardless of the date of that amendment, if the local government initiated the amendment of the UGB prior to January 1, 2016.

Statutory/Other Authority: ORS 197.040 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 - 197.314, 197.610 - 197.650 & 197.764

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

660-024-0010

Definitions

In this division, the definitions in the statewide goals and the following definitions apply:

(1) "Buildable Land" is a term applying to residential land only, and has the same meaning as provided in OAR 660-008-0005(2).

(2) "EOA" means an economic opportunities analysis carried out under OAR 660-009-0015.

(3) "Housing need" or "housing need analysis" refers to a local determination as to the needed amount, types and densities of housing that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the 20-year planning period;

- (b) Consistent with any adopted regional housing standards, state statutes regarding housing need and with Goal 10 and rules interpreting that goal; and
- (c) Consistent with Goal 14 requirements.
- (4) "Local government" means a city or county, or a metropolitan service district described in ORS 197.015(13).
- (5) "Metro boundary" means the boundary of a metropolitan service district defined in ORS 197.015(13).
- (6) "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets and roads.
- (7) "Safe harbor" means an optional course of action that a local government may use to satisfy a requirement of Goal 14. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division.
- (8) "Suitable vacant and developed land" describes land for employment opportunities, and has the same meaning as provided in OAR 660-009-0005 section (1) for "developed land," section (12) for "suitable," and section (14) for "vacant land."
- (9) "UGB" means "urban growth boundary."
- (10) "Urban area" means the land within a UGB.

Statutory/Other Authority: ORS 197.040 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 - 197.314, 197.610 - 197.650 & 197.764

History:

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

660-024-0020

Adoption or Amendment of a UGB

- (1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:
- (a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);
- (b) Goals 3 and 4 are not applicable;
- (c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;
- (d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;
- (e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;
- (f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;
- (g) Goal 19 is not applicable to a UGB amendment.
- (2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.

Statutory/Other Authority: ORS 197.040 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 - 197.314, 197.610 - 197.650 & 197.764

History:

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

660-024-0040

Land Need

- (1) The UGB must be based on the appropriate 20-year population forecast for the urban area as determined under rules in OAR chapter 660, division 32, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of

precision. Local governments in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot Industrial Land by following the provisions of OAR 660-024-0045 for areas subject to that rule.

(2) If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as part of a sequential UGB approval, the 20-year planning period will be established in the work program issued pursuant to OAR 660-025-0185. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:

(a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or

(b) If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the appropriate coordinated population forecast for the urban area as determined under rules in OAR chapter 660, division 32, unless ORS 197.296 requires a different date for local governments subject to that statute.

(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

(4) The determination of 20-year residential land needs for an urban area must be consistent with the appropriate 20-year coordinated population forecast for the urban area determined under rules in OAR chapter 660, division 32, and with the requirements for determining housing needs in Goals 10 and 14, OAR chapter 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

(5) Except for a metropolitan service district described in ORS 197.015(13), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth. Local governments in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot Industrial Land by following the provisions of OAR 660-024-0045 for areas subject to that rule.

(6) Cities and counties may jointly conduct a coordinated regional EOA for more than one city in the county or for a defined region within one or more counties, in conformance with Goal 9, OAR chapter 660, division 9, and applicable provisions of ORS 195.025. A defined region may include incorporated and unincorporated areas of one or more counties.

(7) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with 195.110 and 197.296 for local governments specified in those statutes.

(8) The following safe harbors may be applied by a local government to determine housing need under this division:

(a) A local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

(e) A local government outside of the Metro boundary may estimate its housing vacancy rate for the 20-year planning period using the vacancy rate in the most current data published by the U.S. Census Bureau for that urban area that includes the local government.

(f) A local government outside of the Metro boundary may determine housing needs for purposes of a UGB amendment using the combined Housing Density and Housing Mix safe harbors described in this subsection and in Table 1, or in combination with the Alternative Density safe harbor described under subsection (g) of this section and in Table 2. To meet the Housing Density safe harbor in this subsection, the local government may Assume For UGB Analysis that all buildable land in the urban area, including land added to the UGB, will develop at the applicable average overall density specified in column B of Table 1. Buildable land in the UGB, including land added to the UGB, must also be Zoned to Allow at least the average overall maximum density specified as Zone To Allow in column B of Table 1. Finally, the local government must adopt zoning that ensures buildable land in the urban area, including land added to the UGB, cannot develop at an average overall density less than the applicable Required Overall Minimum density specified in column B of Table 1. To meet the Housing Mix safe harbor in this subsection, the local

government must Zone to Allow the applicable percentages of low, medium and high density residential specified in column C of Table 1.

(g) When using the safe harbor in subsection (f), a local government may choose to also use the applicable Alternative Density safe harbors for Small Exception Parcels and High Value Farm Land specified in Table 2. If a local government chooses to use the Alternative Density safe harbors described in Table 2, it must:

(A) Apply the applicable Small Exception Parcel density assumption and the High Value Farm Land density assumption measures specified in the table to all buildable land that is within these categories, and

(B) Apply the Housing Density and Mix safe harbors specified in subsection (f) of this section and specified in Table 1 to all buildable land in the urban area that does not consist of Small Exception Parcels or High Value Farm Land.

(h) As an alternative to the density safe harbors in subsection (f) and, if applicable, subsection (g), of this section, a local government outside of the Metro boundary may assume that the average overall density of buildable residential land in the urban area for the 20-year planning period will increase by 25 percent over the average overall density of developed residential land in the urban area at the time the local government initiated the evaluation or amendment of the UGB. If a local government uses this Incremental Housing Density safe harbor, it must also meet the applicable Zoned to Allow density and Required Overall Minimum density requirements in Column B of Table 1 and, if applicable, Table 2, and must use the Housing Mix safe harbor in Column C of Table 1.

(i) As an alternative to the Housing Mix safe harbor required in subsection (f) of this section and in Column C of Table 1, a local government outside the Metro boundary that uses the housing density safe harbor in subsection (f), (g) or (h) of this section may estimate housing mix using the Incremental Housing Mix safe harbor described in paragraphs (A) to (C) of this subsection, as illustrated in Table 3:

(A) Determine the existing percentages of low density, medium density, and high density housing on developed land (not "buildable land") in the urban area at the time the local government initiated the evaluation or amendment of the UGB;

(B) Increase the percentage of medium density housing estimated in paragraph (A) of this subsection by 10 percent, increase the percentage of high density housing estimated in paragraph (A) of this subsection by five percent, as illustrated in Table 3, and decrease the percentage of low density single family housing by a proportionate amount so that the overall mix total is 100 percent, and

(C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B) of this subsection.

(j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to terms used in the tables:

(A) "Assume For UGB Analysis" means the local government may assume that the UGB will develop over the 20-year planning period at the applicable overall density specified in Column B of Tables 1 and 2.

(B) "Attached housing" means housing where each unit shares a common wall, ceiling or floor with at least one other unit. "Attached housing" includes, but is not limited to, apartments, condominiums, and common-wall dwellings or row houses where each dwelling unit occupies a separate lot.

(C) "Average Overall Density" means the average density of all buildable land in the UGB, including buildable land already inside the UGB and buildable land added to the UGB, including land zoned for residential use that is presumed to be needed for schools, parks and other institutional uses.

(D) "Coordinated 20-year Population Forecast" and "20-year Population Forecast" under Column A of the Tables refers to the appropriate population forecast for the urban area determined under rules in OAR chapter 660, division 32.

(E) "Density" means the number of dwelling units per net buildable acre.

(F) "High Value Farm Land" has the same meaning as the term defined in ORS 195.300(10).

(G) "Required Overall Minimum" means a minimum allowed overall average density, or a "density floor," that must be ensured in the applicable residential zones with respect to the overall supply of buildable land for that zone in the urban area for the 20-year planning period.

(H) "Single Family Detached Housing" means a housing unit that is free standing and separate from other housing units, including mobile homes and manufactured dwellings under ORS 197.475 to 197.492.

(I) "Small Exception Parcel" means a residentially zoned parcel five acres or less with a house on it, located on land that is outside a UGB prior to a proposed UGB expansion, subject to an acknowledged exception to Goal 3 or 4 or both.

(J) "Zone To Allow" or "Zoned to Allow" means that the comprehensive plan and implementing zoning shall allow the specified housing types and densities under clear and objective standards and other requirements specified in ORS 197.307(4) and (6).

(9) The following safe harbors may be applied by a local government to determine its employment needs for purposes of a UGB amendment under this rule, Goal 9, OAR chapter 660, division 9, Goal 14 and, if applicable, ORS 197.296.

(a) A local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the appropriate 20-year coordinated population forecast determined under rules in OAR chapter 660, division 32.

(b) A local government with a population of 10,000 or less may assume that retail and service commercial land needs will grow in direct proportion to the forecasted urban area population growth over the 20-year planning period. This safe harbor may not be used to determine employment land needs for sectors other than retail and service commercial.

(10) As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule, and in conformance with the definition of "Net Buildable Acre" as defined in OAR 660-024-0010(6).

Statutory/Other Authority: ORS 197.040, Statewide Planning Goal 14 & ORS 195.033(10)

Statutes/Other Implemented: ORS 195.036, ORS 197.015, ORS 197.295 - 197.314, ORS 197.610 - 197.650, ORS 197.764, ORS 195.033, ORS 195.036 & OL 2013 Ch. 574 Sec. 3

History:

LCDD 2-2019, amend filed 01/28/2019, effective 02/01/2019

LCDD 1-2015, f. & cert. ef. 3-25-15

LCDD 9-2012, f. 11-26-12, cert. ef. 12-10-12

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

660-024-0045

Regional Large Lot Industrial Land

(1) Local governments in Crook, Deschutes or Jefferson Counties may determine a need for large lot industrial land in the region and provide sites to meet that need in accordance with this rule.

(2) In addition to the definitions in OAR 660-024-0010, the following definitions apply to this rule:

(a) "Analysis" means the document that determines the regional large lot industrial land need within Crook, Deschutes, or Jefferson County that is not met by the participating local governments' comprehensive plans at the time the analysis is adopted. The analysis shall also identify necessary site characteristics of needed land.

(b) "COIC" means the Central Oregon Intergovernmental Council.

(c) "Intergovernmental Agreement (IGA)" means the document adopted by the three counties and any participating city to implement the provisions of the analysis.

(d) "Participating city" means a city within Crook, Deschutes, or Jefferson County that has adopted the analysis and entered into the intergovernmental agreement to implement the provisions of the analysis.

(e) "Participating local government" means Crook, Deschutes, and Jefferson Counties, and participating cities.

(f) "Regional large lot industrial land need" means the need for a specific type of 20-year employment land need, as described in OAR 660-024-0040(1) and (5), that is determined based upon the analysis.

(g) "Site" means land in the region that:

(A) Provides the site characteristics necessary for traded sector uses as set forth in the analysis;

(B) Is 50 acres or larger as provided in section (3) of this rule; and

(C) Is determined to be "available," as that term is defined in OAR 660-009-0025(7), for regional large-lot industrial users and for purposes identified by the analysis.

(h) "Site characteristics" has the meaning given that term in OAR 660-009-0005(1).

(i) "Traded Sector use" has the meaning given that term in ORS 285B.280.

(3) For purposes of subsection (2)(g) of this rule, a large lot is at least 50 acres if it is:

(a) A single lot, parcel that is at least 50 acres,

(b) An aggregation of existing lots or parcels under the same ownership that comprises at least 50 acres, or

(c) An aggregation of existing lots or parcels not in the same ownership created and maintained as a unit of land comprising at least 50 acres through a binding agreement among the owners.

(4) Participating local governments may adopt the analysis and implement its provisions. The analysis may demonstrate a need for six vacant, suitable and available sites in the region, and up to three additional sites that may be designated in order to replace one of the original six sites that is developed or committed to development as provided in section (12) of this rule. The original six sites must include two sites of at least 100 acres and not more than 200 acres, and one site more than 200 acres.

(5) If a participating city adopts the analysis, it is deemed to provide an adequate factual basis for the determination of regional large lot industrial land need for that city provided:

(a) The city and other participating local governments have entered into an intergovernmental agreement with the COIC, and

(b) The analysis is adopted by Crook, Deschutes and Jefferson Counties.

(6) Participating cities may adopt the analysis and enter into the intergovernmental agreement without amending the Economic Opportunities Analysis adopted by the city prior to the adoption of the analysis.

(7) The intergovernmental agreement shall describe the process by which the COIC shall coordinate with participating local governments in:

(a) The determination of a qualifying site that a participating city may designate in order to satisfy the regional large lot industrial land need; and

(b) The allocation of the qualifying sites among the participating cities in accordance with section (4) of this rule.

(8) A participating city may amend its comprehensive plan and land use regulations, including urban growth boundaries (UGB), in order to designate a site in accordance with the requirements of this rule, other applicable laws and the intergovernmental agreement, as follows:

(a) A participating city must show whether a suitable and available site is located within its existing UGB. If a participating city determines that a suitable site already exists within the city's urban growth boundary, that site must be designated to meet the regional industrial land need. Cities shall not be required to evaluate lands within their UGB designated to meet local industrial land needs.

(b) If a site is not designated per subsection(a), then a participating city may evaluate land outside the UGB to determine if any suitable sites exist. If candidate sites are found, the city may amend its UGB in accordance with Goal 14, other applicable laws and the intergovernmental agreement.

(9) A participating city that designates a site shall apply a regional large-lot industrial zone or overlay zone to the site in order to protect and maintain the site for regional large lot purposes. The zone or overlay zone must:

(a) Include development agreements and other provisions that prevent redesignation of the site for other uses for at least 10 years from the time the site is added to the city's comprehensive plan to meet regional large lot industrial land needs;

(b) Prohibit division or separation of lots or parcels within the site to new lots or parcels less than the minimum size of the site need until the site is developed with a primary traded sector use requiring a large lot; and

(c) Limit allowed uses on the site to the traded sector uses, except as provided in section (10) of this rule.

(10) The zone or overlay zone established under section (9) may allow:

(a) Subordinate industrial uses that rely upon and support the primary traded sector use when a site is occupied by a primary traded sector use; and

(b) Non-industrial uses serving primarily the needs of employees of industrial uses developed on the site provided the zone includes measures that limit the type, size and location of new buildings so as to ensure such non-industrial uses are intended primarily for the needs of such employees;

(11) If a participating city adds a site to its plan pursuant to this rule, it must consider the site in any subsequent urban growth boundary evaluation conducted to determine local industrial land needs and the adequacy of land available to meet local industrial land needs.

(12) A site may be considered developed or committed to industrial development if a large-lot traded sector user demonstrates a commitment to develop the site by obtaining land use approvals such as site plan review or conditional use permits, and

(a) Obtaining building permits; or

(b) Providing other evidence that demonstrates at least an equivalent commitment to industrial development of the site as is demonstrated by a building permit.

(13) The participating local governments shall review the analysis after the regional supply of six sites has either been replenished by three additional sites or after ten years, whichever comes first.

Statutory/Other Authority: ORS 197.040 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 - 197.314, 197.610 - 197.650 & 197.764

History:

LCDD 9-2012, f. 11-26-12, cert. ef. 12-10-12

660-024-0050

Land Inventory and Response to Deficiency

(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040.

For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015.

(2) As safe harbors, a local government, except a city with a population over 25,000 or a metropolitan service district described in ORS 197.015(13), may use the following assumptions to inventory the capacity of buildable lands to accommodate housing needs:

(a) The infill potential of developed residential lots or parcels of one-half acre or more may be determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and assuming that the remainder is buildable land;

(b) Existing lots of less than one-half acre that are currently occupied by a residence may be assumed to be fully developed.

(3) As safe harbors when inventorying land to accommodate industrial and other employment needs, a local government may assume that a lot or parcel is vacant if it is:

(a) Equal to or larger than one-half acre, if the lot or parcel does not contain a permanent building; or

(b) Equal to or larger than five acres, if less than one-half acre of the lot or parcel is occupied by a permanent building.

(4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. If the local government determines there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and applicable rules at OAR 660-024-0060 or 660-024-0065 and 660-024-0067.

(5) In evaluating an amendment of a UGB submitted under ORS 197.626, the director or the commission may determine that a difference between the estimated 20-year needs determined under OAR 660-024-0040 and the amount of land and development capacity added to the UGB by the submitted amendment is unlikely to significantly affect land supply or resource land protection, and as a result, may determine that the proposed amendment complies with section (4) of this rule.

(6) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination and the requirements of section (7) of this rule, if applicable. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.

(7) Lands included within a UGB pursuant to OAR 660-024-0065(3) to provide for a particular industrial use, or a particular public facility, must be planned and zoned for the intended use and must remain planned and zoned for that use unless the city removes the land from the UGB.

(8) As a safe harbor regarding requirements concerning "efficiency," a local government that chooses to use the density and mix safe harbors in OAR 660-024-0040(8) is deemed to have met the Goal 14 efficiency requirements under:

(a) Sections (1) and (4) of this rule regarding evaluation of the development capacity of residential land inside the UGB to accommodate the estimated 20-year needs; and

(b) Goal 14 regarding a demonstration that residential needs cannot be reasonably accommodated on residential land already inside the UGB, but not with respect to:

(A) A demonstration that residential needs cannot be reasonably accommodated by rezoning non-residential land, and

(B) Compliance with Goal 14 Boundary Location factors.

Statutory/Other Authority: ORS 197.040, 197A.305, 197A.320 & 197.235 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764 & 197A.300 - 197A.325

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

Metro Boundary Location Alternatives Analysis

(1) When considering a Metro UGB amendment, Metro must determine which land to add by evaluating alternative urban growth boundary locations. For Metro, this determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(a) Beginning with the highest priority of land available, Metro must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.

(b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, Metro must apply the location factors of Goal 14 to choose which land in that priority to include in the Metro UGB.

(c) If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, Metro must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.

(d) Notwithstanding subsection (a) to (c) of this section, Metro may consider land of lower priority as specified in ORS 197.298(3).

(e) For purposes of this section, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.

(2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during a legislative review of the Metro UGB, Metro may approve an application under ORS 197.610 to 197.625 for a Metro UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

(3) The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the Metro UGB location, Metro must show that all the factors were considered and balanced.

(4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.

(5) If Metro has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, Metro may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.

(6) The adopted findings for a Metro UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.

(7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.

(8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative Metro UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation (ODOT) with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the Metro UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the Metro UGB; and

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

Statutory/Other Authority: ORS 197.040, 197A.305, 197A.320 & 197.235 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764 & 197A.300 - 197A.325

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07

Establishment of Study Area to Evaluate Land for Inclusion in the UGB

(1) When considering a UGB amendment to accommodate a need deficit identified in OAR 660-024-0050(4), a city outside of Metro must determine which land to add to the UGB by evaluating alternative locations within a "study area" established pursuant to this rule. To establish the study area, the city must first identify a "preliminary study area" which shall not include land within a different UGB or the corporate limits of a city within a different UGB. The preliminary study area shall include:

- (a) All lands in the city's acknowledged urban reserve, if any;
- (b) All lands that are within the following distance from the acknowledged UGB:
 - (A) For cities with a UGB population less than 10,000: one-half mile;
 - (B) For cities with a UGB population equal to or greater than 10,000: one mile;
- (c) All exception areas contiguous to an exception area that includes land within the distance specified in subsection (b) and that are within the following distance from the acknowledged UGB:
 - (A) For cities with a UGB population less than 10,000: one mile;
 - (B) For cities with a UGB population equal to or greater than 10,000: one and one-half miles;
- (d) At the discretion of the city, the preliminary study area may include land that is beyond the distance specified in subsections (b) and (c).

(2) A city that initiated the evaluation or amendment of its UGB prior to January 1, 2016, may choose to identify a preliminary study area applying the standard in this section rather than section (1). For such cities, the preliminary study area shall consist of:

- (a) All land adjacent to the acknowledged UGB, including all land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency, and
- (b) All land in the city's acknowledged urban reserve established under OAR chapter 660, division 21, if applicable.

(3) When the primary purpose for expansion of the UGB is to accommodate a particular industrial use that requires specific site characteristics, or to accommodate a public facility that requires specific site characteristics, and the site characteristics may be found in only a small number of locations, the preliminary study area may be limited to those locations within the distance described in section (1) or (2), whichever is appropriate, that have or could be improved to provide the required site characteristics. For purposes of this section:

(a) The definition of "site characteristics" in OAR 660-009-0005(11) applies for purposes of identifying a particular industrial use.

(b) A "public facility" may include a facility necessary for public sewer, water, storm water, transportation, parks, schools, or fire protection. Site characteristics may include but are not limited to size, topography and proximity.

(4) The city may exclude land from the preliminary study area if it determines that:

(a) Based on the standards in section (7) of this rule, it is impracticable to provide necessary public facilities or services to the land;

(b) The land is subject to significant development hazards, due to a risk of:

(A) Landslides: The land consists of a landslide deposit or scarp flank that is described and mapped on the Statewide Landslide Information Database for Oregon (SLIDO) Release 3.2 Geodatabase published by the Oregon Department of Geology and Mineral Industries (DOGAMI) December 2014, provided that the deposit or scarp flank in the data source is mapped at a scale of 1:40,000 or finer. If the owner of a lot or parcel provides the city with a site-specific analysis by a certified engineering geologist demonstrating that development of the property would not be subject to significant landslide risk, the city may not exclude the lot or parcel under this paragraph;

(B) Flooding, including inundation during storm surges: the land is within the Special Flood Hazard Area (SFHA) identified on the applicable Flood Insurance Rate Map (FIRM);

(C) Tsunamis: the land is within a tsunami inundation zone established pursuant to ORS 455.446;

(c) The land consists of a significant scenic, natural, cultural or recreational resource described in this subsection:

(A) Land that is designated in an acknowledged comprehensive plan prior to initiation of the UGB amendment, or that is mapped on a published state or federal inventory at a scale sufficient to determine its location for purposes of this rule, as:

(i) Critical or essential habitat for a species listed by a state or federal agency as threatened or endangered;

(ii) Core habitat for Greater Sage Grouse; or

(iii) Big game migration corridors or winter range, except where located on lands designated as urban reserves or exception areas;

- (B) Federal Wild and Scenic Rivers and State Scenic Waterways, including Related Adjacent Lands described by ORS 390.805, as mapped by the applicable state or federal agency responsible for the scenic program;
- (C) Designated Natural Areas on the Oregon State Register of Natural Heritage Resources;
- (D) Wellhead protection areas described under OAR 660-023-0140 and delineated on a local comprehensive plan;
- (E) Aquatic areas subject to Statewide Planning Goal 16 that are in a Natural or Conservation management unit designated in an acknowledged comprehensive plan;
- (F) Lands subject to acknowledged comprehensive plan or land use regulations that implement Statewide Planning Goal 17, Coastal Shoreland, Use Requirement 1;
- (G) Lands subject to acknowledged comprehensive plan or land use regulations that implement Statewide Planning Goal 18, Implementation Requirement 2;
- (d) The land is owned by the federal government and managed primarily for rural uses.
- (5) After excluding land from the preliminary study area under section (4), the city must adjust the area, if necessary, so that it includes an amount of land that is at least twice the amount of land needed for the deficiency determined under OAR 660-024-0050(4) or, if applicable, twice the particular land need described in section (3). Such adjustment shall be made by expanding the distance specified under the applicable section (1) or (2) and applying section (4) to the expanded area.
- (6) For purposes of evaluating the priority of land under OAR 660-024-0067, the "study area" shall consist of all land that remains in the preliminary study area described in section (1), (2) or (3) of this rule after adjustments to the area based on sections (4) and (5), provided that when a purpose of the UGB expansion is to accommodate a public park need, the city must also consider whether land excluded under subsection (4)(a) through (c) of this rule can reasonably accommodate the park use.
- (7) For purposes of subsection (4)(a), the city may consider it impracticable to provide necessary public facilities or services to the following lands:
 - (a) Contiguous areas of at least five acres where 75 percent or more of the land has a slope of 25 percent or greater, provided that contiguous areas 20 acres or more that are less than 25 percent slope may not be excluded under this subsection. Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum ten-foot contour intervals;
 - (b) Land that is isolated from existing service networks by physical, topographic, or other impediments to service provision such that it is impracticable to provide necessary facilities or services to the land within the planning period. The city's determination shall be based on an evaluation of:
 - (A) The likely amount of development that could occur on the land within the planning period;
 - (B) The likely cost of facilities and services; and,
 - (C) Any substantial evidence collected by or presented to the city regarding how similarly situated land in the region has, or has not, developed over time.
 - (c) As used in this section, "impediments to service provision" may include but are not limited to:
 - (A) Major rivers or other water bodies that would require new bridge crossings to serve planned urban development;
 - (B) Topographic features such as canyons or ridges with slopes exceeding 40 percent and vertical relief of greater than 80 feet;
 - (C) Freeways, rail lines, or other restricted access corridors that would require new grade separated crossings to serve planned urban development;
 - (D) Significant scenic, natural, cultural or recreational resources on an acknowledged plan inventory and subject to protection measures under the plan or implementing regulations, or on a published state or federal inventory, that would prohibit or substantially impede the placement or construction of necessary public facilities and services.
- (8) Land may not be excluded from the preliminary study area based on a finding of impracticability that is primarily a result of existing development patterns. However, a city may forecast development capacity for such land as provided in OAR 660-024-0067(1)(d).
- (9) Notwithstanding OAR 660-024-0050(4) and section (1) of this rule, except during periodic review or other legislative review of the UGB, the city may approve an application under ORS 197.610 to 197.625 for a UGB amendment to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

Statutory/Other Authority: ORS 197.040, 197A.305, 197A.320 & 197.235 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764 & 197A.300 - 197A.325

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities

(1) A city considering a UGB amendment must decide which land to add to the UGB by evaluating all land in the study area determined under OAR 660-024-0065, as follows

(a) Beginning with the highest priority category of land described in section (2), the city must apply section (5) to determine which land in that priority category is suitable to satisfy the need deficiency determined under OAR 660-024-0050 and select for inclusion in the UGB as much of the land as necessary to satisfy the need.

(b) If the amount of suitable land in the first priority category is not sufficient to satisfy all the identified need deficiency, the city must apply section (5) to determine which land in the next priority is suitable and select for inclusion in the UGB as much of the suitable land in that priority as necessary to satisfy the need. The city must proceed in this manner until all the land need is satisfied, except as provided in OAR 660-024-0065(9).

(c) If the amount of suitable land in a particular priority category in section (2) exceeds the amount necessary to satisfy the need deficiency, the city must choose which land in that priority to include in the UGB by applying the criteria in section (7) of this rule.

(d) In evaluating the sufficiency of land to satisfy a need under this section, the city may use the factors identified in sections (5) and (6) of this rule to reduce the forecast development capacity of the land to meet the need.

(e) Land that is determined to not be suitable under section (5) of this rule to satisfy the need deficiency determined under OAR 660-024-0050 is not required to be selected for inclusion in the UGB unless its inclusion is necessary to serve other higher priority lands.

(2) Priority of Land for inclusion in a UGB:

(a) First Priority is urban reserve, exception land, and nonresource land. Lands in the study area that meet the description in paragraphs (A) through (C) of this subsection are of equal (first) priority:

(A) Land designated as an urban reserve under OAR chapter 660, division 21, in an acknowledged comprehensive plan;

(B) Land that is subject to an acknowledged exception under ORS 197.732; and

(C) Land that is nonresource land.

(b) Second Priority is marginal land: land within the study area that is designated as marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive plan.

(c) Third Priority is forest or farm land that is not predominantly high-value farm land: land within the study area that is designated for forest or agriculture uses in the acknowledged comprehensive plan and that is not predominantly high-value farmland as defined in ORS 195.300, or that does not consist predominantly of prime or unique soils, as determined by the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS). In selecting which lands to include to satisfy the need, the city must use the agricultural land capability classification system or the cubic foot site class system, as appropriate for the acknowledged comprehensive plan designation, to select lower capability or cubic foot site class lands first.

(d) Fourth Priority is agricultural land that is predominantly high-value farmland: land within the study area that is designated as agricultural land in an acknowledged comprehensive plan and is predominantly high-value farmland as defined in ORS 195.300. A city may not select land that is predominantly made up of prime or unique farm soils, as defined by the USDA NRCS, unless there is an insufficient amount of other land to satisfy its land need. In selecting which lands to include to satisfy the need, the city must use the agricultural land capability classification system to select lower capability lands first.

(3) Notwithstanding section (2)(c) or (d) of this rule, land that would otherwise be excluded from a UGB may be included if:

(a) The land contains a small amount of third or fourth priority land that is not important to the commercial agricultural enterprise in the area and the land must be included in the UGB to connect a nearby and significantly larger area of land of higher priority for inclusion within the UGB; or

(b) The land contains a small amount of third or fourth priority land that is not predominantly high-value farmland or predominantly made up of prime or unique farm soils and the land is completely surrounded by land of higher priority for inclusion into the UGB.

(4) For purposes of categorizing and evaluating land pursuant to subsections (2)(c) and (d) and section (3) of this rule,

(a) Areas of land not larger than 100 acres may be grouped together and studied as a single unit of land;

(b) Areas of land larger than 100 acres that are similarly situated and have similar soils may be grouped together provided soils of lower agricultural or forest capability may not be grouped with soils of higher capability in a manner inconsistent with the intent of section (2) of this rule, which requires that higher capability resource lands shall be the last priority for inclusion in a UGB;

(c) Notwithstanding subsection (4)(a), if a city initiated the evaluation or amendment of its UGB prior to January 1, 2016, and if the analysis involves more than one lot or parcel or area within a particular priority category for which

circumstances are reasonably similar, these lots, parcels and areas may be considered and evaluated as a single group;

(d) When determining whether the land is predominantly high-value farmland, or predominantly prime or unique, “predominantly” means more than 50 percent.

(5) With respect to section (1), a city must assume that vacant or partially vacant land in a particular priority category is “suitable” to satisfy a need deficiency identified in OAR 660-024-0050(4) unless it demonstrates that the land cannot satisfy the specified need based on one or more of the conditions described in subsections (a) through (g) of this section: Existing parcelization, lot sizes or development patterns of rural residential land make that land unsuitable for an identified employment need; as follows:

(A) Parcelization: the land consists primarily of parcels 2-acres or less in size, or

(B) Existing development patterns: the land cannot be reasonably redeveloped or infilled within the planning period due to the location of existing structures and infrastructure.”

(b) The land would qualify for exclusion from the preliminary study area under the factors in OAR 660-024-0065(4) but the city declined to exclude it pending more detailed analysis.

(c) The land is, or will be upon inclusion in the UGB, subject to natural resources protections under Statewide Planning Goal 5 such that that no development capacity should be forecast on that land to meet the land need deficiency.

(d) With respect to needed industrial uses only, the land is over 10 percent slope, or is an existing lot or parcel that is smaller than 5 acres in size, or both. Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum ten-foot contour intervals.

(e) With respect to a particular industrial use or particular public facility use described in OAR 660-024-0065(3), the land does not have, and cannot be improved to provide, one or more of the required specific site characteristics.

(f) The land is subject to a conservation easement described in ORS 271.715 that prohibits urban development.

(g) The land is committed to a use described in this subsection and the use is unlikely to be discontinued during the planning period:

(A) Public park, church, school, or cemetery, or

(B) Land within the boundary of an airport designated for airport uses, but not including land designated or zoned for residential, commercial or industrial uses in an acknowledged comprehensive plan.

(6) For vacant or partially vacant lands added to the UGB to provide for residential uses:

(a) Existing lots or parcels one acre or less may be assumed to have a development capacity of one dwelling unit per lot or parcel. Existing lots or parcels greater than one acre but less than two acres shall be assumed to have an aggregate development capacity of two dwelling units per acre.

(b) In any subsequent review of a UGB pursuant to this division, the city may use a development assumption for land described in subsection (a) of this section for a period of up to 14 years from the date the lands were added to the UGB.

(7) Pursuant to subsection (1)(c), if the amount of suitable land in a particular priority category under section (2) exceeds the amount necessary to satisfy the need deficiency, the city must choose which land in that priority to include in the UGB by first applying the boundary location factors of Goal 14 and then applying applicable criteria in the acknowledged comprehensive plan and land use regulations acknowledged prior to initiation of the UGB evaluation or amendment. The city may not apply local comprehensive plan criteria that contradict the requirements of the boundary location factors of Goal 14. The boundary location factors are not independent criteria; when the factors are applied to compare alternative boundary locations and to determine the UGB location the city must show that it considered and balanced all the factors. The criteria in this section may not be used to select lands designated for agriculture or forest use that have higher land capability or cubic foot site class, as applicable, ahead of lands that have lower capability or cubic foot site class.

(8) The city must apply the boundary location factors of Goal 14 in coordination with service providers and state agencies, including the Oregon Department of Transportation (ODOT) with respect to Factor 2 regarding impacts on the state transportation system, and the Oregon Department of Fish and Wildlife (ODFW) and the Department of State Lands (DSL) with respect to Factor 3 regarding environmental consequences. “Coordination” includes timely notice to agencies and service providers and consideration of any recommended evaluation methodologies.

(9) In applying Goal 14 Boundary Location Factor 2 to evaluate alternative locations under section (7), the city must compare relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. For purposes of this section, the term “public facilities and services” means water, sanitary sewer, storm water management, and transportation facilities. The evaluation and comparison under Boundary Location Factor 2 must consider:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

(10) The adopted findings for UGB amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis.

Statutory/Other Authority: ORS 197.040, 197A.305, 197A.320 & 197.235 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764 & 197A.300 - 197A.325

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

660-024-0070

UGB Adjustments

(1) A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14 and this division[and ORS 197.298] apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB prior to or at the time of adoption of the UGB amendment and must apply applicable location and priority provisions of OAR 660-024-0060 through 660-020-0067.

(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of 197.610 to 197.650, provided it determines:

(a) The removal of land would not violate applicable statewide planning goals and rules;

(b) The UGB would provide a 20-year supply of land for estimated needs after the land is removed, or would provide roughly the same supply of buildable land as prior to the removal, taking into consideration land added to the UGB at the same time;

(c) Public facilities agreements adopted under ORS 195.020 do not intend to provide for urban services on the subject land unless the public facilities provider agrees to removal of the land from the UGB and concurrent modification of the agreement;

(d) Removal of the land does not preclude the efficient provision of urban services to any other buildable land that remains inside the UGB; and

(e) The land removed from the UGB is planned and zoned for rural use consistent with all applicable laws.

(3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on the land needs analysis that provided a basis for its current acknowledged plan, rather than adopting a new need analysis, provided:

(a) The amount of buildable land added to the UGB to meet:

(A) A specific type of residential need is substantially equivalent to the amount of buildable residential land removed, or

(B) The amount of employment land added to the UGB to meet an employment need is substantially equivalent to the amount of employment land removed, and

(b) The local government must apply comprehensive plan designations and, if applicable, urban zoning to the land added to the UGB, such that the land added is designated:

(A) For the same residential uses and at the same housing density as the land removed from the UGB, or

(B) For the same employment uses as allowed on the land removed from the UGB, or

(C) If the land exchange is intended to provide for a particular industrial use that requires specific site characteristics, only land zoned for commercial or industrial use may be removed, and the land added must be zoned for the particular industrial use and meet other applicable requirements of ORS 197A.320(6).

Statutory/Other Authority: ORS 197.040, 197A.305, 197A.320 & 197.235 & Statewide Planning Goal 14

Statutes/Other Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764 & 197A.300 - 197A.325

History:

LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

660-024-0075

Airport Economic Development Pilot Program

(1) For the purposes of this rule, the following definitions apply in addition to those in OAR 660-024-0010:

(a) "Approved airport master plan" means a comprehensive study of an airport describing the short-, medium-, and long-term development plans to meet future aviation demand with any necessary approval from the Federal Aviation Administration and adoption as a component of the comprehensive plan.

(b) "Master plan for economic development" means a written plan or plans developed by a city for a proposed pilot program site that explains how development of the proposed pilot program site will advance the city's economic development goals contained in the comprehensive plan; how the city expects urbanization of the proposed pilot program site to promote economic development, industry growth, and job creation that would not otherwise occur at other locations in the urban area; and how the site will be served with public facilities and services.

(c) "Pilot program site" means the land included in the nomination for the pilot program under section (3) and selected for the program under section (4).

(d) "Public facilities and services" means water, sanitary sewer, storm water management, transportation facilities, and emergency services.

(e) "Traded sector" has the meaning provided in ORS 285B.280.

(2) As provided in ORS 197A.405(5), the commission will select one city to implement a pilot program to promote economic development and industry growth and job creation at an airport. The commission will select a pilot program city according to the process in section (4). The pilot program will be implemented according to the requirements of sections (5) to (8).

(3) A city may nominate a site adjacent to its UGB for participation in the pilot program. A nomination must:

(a) Include a concept plan that contains:

(A) A master plan for economic development of the proposed site. A master plan for economic development will be approved by the city's elected body after at least one public hearing;

(B) A list of goals for the master plan for economic development of the proposed pilot program site;

(C) Current comprehensive plan map designation and a description of proposed changes needed to implement the master plan for economic development;

(D) Any proposed changes to comprehensive plan text needed to implement the master plan for economic development for at least 20 years; and

(E) Current zoning regulations, a description of proposed changes needed to implement the master plan for economic development, and an explanation of how the proposed changes will only allow uses that are compatible with aviation uses at the adjacent airport.

(b) Include a map or maps showing that the site is adjacent to the existing UGB and adjacent to an airport;

(c) Include the approved airport master plan for the airport to which the nominated site is adjacent;

(d) Include public facilities plans showing that the nominated site is near public facilities and services;

(e) Report the number of jobs that were existing at all of the businesses located on the proposed pilot program site on the effective date of ORS 197A.405;

(f) Include evidence that the governing body of the county containing the nominated site consents to the nomination; and

(g) Be submitted to the department by a date selected by the director.

(4) The commission shall select a pilot program site from among those nominated. The selected site must satisfy the criteria in subsection (a). The commission will select the site that, in its judgment, best satisfies the criteria in subsection (b). The requirements of subsection (c) apply to the selection process.

(a) The site is:

(A) Not less than 78 miles from the urban growth boundary of any city with a population of 300,000 or more;

(B) Located in a county with at least seven percent unemployment over the preceding five-year period. The unemployment rate shall be calculated using data from the Oregon Employment Department. For the purposes of this rule, "over the preceding five-year period" means the average annual, seasonally adjusted unemployment rate for the five years preceding the date in subsection (3)(g);

(C) Adjacent to the city's existing UGB;

(D) Adjacent to an airport with an approved airport master plan;

- (E) Near public facilities and services, including streets;
 - (F) Planned and zoned for commercial or industrial uses that are compatible with aviation uses; and
 - (G) Not high-value farmland as the term defined in ORS 195.300(10).
- (b) The pilot program site:
- (A) Will, once included in the UGB, provide economic development opportunities not present in other parts of the urban area; and
 - (B) Can be served with public facilities and services at a level adequate for planned industrial and commercial uses.
- (c) The commission shall select one pilot program site for implementation. In selecting the pilot program site, the commission may only consider applications that the department determines are complete pursuant to subsections (3)(a) to (f). The commission shall issue a final order selecting the city for the expedited UGB amendment.
- (5) Notwithstanding OAR 660-024-0040, the city selected under subsection (4)(c) for the pilot program may expand the UGB for the city to include the pilot program site without demonstrating a need for land during the planning period.
- (6) Notwithstanding OAR 660-024-0050, the city selected under subsection (4)(c) for the pilot program may expand the UGB for the city to include the pilot program site without completing an inventory of land inside the UGB to determine development capacity and without determining whether the UGB has a deficiency of industrial land to accommodate 20-year needs.
- (7) Notwithstanding OAR 660-024-0065 and 660-024-0067, the city selected in subsection (4)(c) for the pilot program may expand the UGB for the city to include the pilot program site without establishing or evaluating a study area. Only the pilot program site may be included in a UGB amendment completed under the provisions of this rule.
- (8) The following requirements apply to the city and county expanding its UGB for the pilot program site:
- (a) Concurrently with adoption of a UGB amendment, the city or county must assign appropriate urban comprehensive plan and zoning designations to land added to the UGB consistent with the master plan for economic development. The pilot program site must remain planned and zoned for industrial uses, and commercial uses that support industrial or aviation use, that are compatible with aviation uses for a period of 20 years after the site is included in the UGB;
 - (b) The pilot program site must be protected from conversion to other uses before, during, and after implementation of the master plan for economic development;
 - (c) Industrial and commercial developments on the pilot program site must continue to be used to implement the master plan for economic development for a period of at least 50 years after the selection of the pilot program site through:
 - (A) Zoning restrictions; or
 - (B) Other regulations, provisions or conditions determined by the city.
- (9) A pilot program site included in a UGB must be treated as employment land for the purposes of a subsequent land need analysis under OAR chapter 660, division 24 or 38.
- (10) The city that expands its UGB pursuant to this rule must provide, to the extent practicable, the following information to the department by September 30, 2021:
- (a) The number of new businesses established within the boundaries of the pilot program site and the number of businesses that relocated to the pilot program site from another location in the urban area;
 - (b) The number of jobs created at the pilot program site. Include:
 - (A) The total number of jobs at businesses located on the pilot program site at the time of the report;
 - (B) The number of jobs reported in paragraph (A) that were existing at a business located on the pilot program site before the site was included in the UGB;
 - (C) The number of jobs reported in paragraph (A) that were created by an existing business located on the pilot program site after the site was included in the UGB;
 - (D) The number of jobs reported in paragraph (A) that were created by a business or businesses that had no employees in the urban area containing the pilot program site before the business located on the pilot program site;
 - (E) The number of jobs reported in paragraph (A) that were created by a business or businesses that relocated jobs on the pilot program site from another location within the urban area containing the pilot program site; and
 - (F) The number of jobs reported in paragraphs (C) and (D) at businesses engaged in a traded sector.
 - (c) The wages of the new jobs described in paragraphs (b)(C) and (D) created at the pilot program site. The wage data may be provided in categories or other generalized fashion;

- (d) The most recently available unemployment rate from the Oregon Department of Employment for the county containing the pilot program site and an analysis of the effect of the employment and unemployment in the city by business development at the pilot program site;
- (e) The number of residential properties listed for sale on the Residential Multiple Listing Service with an address from the city containing the pilot program site on a date one month after the commission selects the city and on June 30, 2021;
- (f) The average sale price of residential properties with an address from the city containing the pilot program site for the period beginning one month after the commission selects the city and ending June 30, 2021;
- (g) The average per-acre price of land zoned industrial listed for sale with an address from the city containing the pilot program site on a date one month after the commission selects the city and on June 30, 2021;
- (h) The dollars of private investment in the pilot program site after the pilot program site is included in the UGB, as determined from standard building permit records;
- (i) An analysis of the economic growth of the city and county since the implementation of the pilot program.

Statutory/Other Authority: ORS 197.040 & ORS 197A.405

Statutes/Other Implemented: ORS 197A.405-197A.413

History:

[LCDD 6-2018](#), [adopt filed 08/06/2018](#), [effective 08/06/2018](#)

660-024-0080

LCDC Review Required for UGB Amendments

A metropolitan service district that amends its UGB to include more than 100 acres, or a city with a population of 2,500 or more within its UGB that amends the UGB to include more than 50 acres shall submit the amendment to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175.

Statutory/Other Authority: ORS 197.040 & Other Auth. Statewide Planning Goal 14

Statutes/Other Implemented: ORS 197.626

History:

[LCDD 2-2009](#), f. 4-8-09, cert. ef. 4-16-09

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Land Conservation and Development Department

Chapter 660

Division 25

PERIODIC REVIEW

660-025-0010

Purpose

The purpose of this division is to carry out the state policy outlined in ORS 197.010 and 197.628. This division is intended to implement provisions of ORS 197.626 through 197.651. The purpose for periodic review is to ensure that comprehensive plans and land use regulations remain in compliance with the statewide planning goals adopted pursuant to ORS 197.230, the commission's rules and applicable land use statutes. Periodic review also is intended to ensure that local government plans and regulations make adequate provision for economic development, needed housing, transportation, public facilities and services, and urbanization, and that local plans are coordinated as described in ORS 197.015(5). Periodic Review is a cooperative planning process that includes the state and its agencies, local governments, and other interested persons.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.010 & 197.626 - 197.651

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0020

Definitions

For the purposes of this division, the definitions contained in ORS 197.015, 197.303, and 197.747 shall apply unless the context requires otherwise. In addition, the following definitions apply:

- (1) "Filed" or "Submitted" means that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon, office.
- (2) "Final Decision" means the completion by the local government of a work task on an approved work program, including the adoption of supporting findings and any amendments to the comprehensive plan or land use regulations. A decision is final when the local government's decision is transmitted to the department for review.
- (3) "Metropolitan planning organization" means an organization located wholly within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state pursuant to 49 USC § 5303(c).
- (4) "Objection" means a written complaint concerning the adequacy of an evaluation, proposed work program, or completed work task.
- (5) "Participated at the local level" means to have provided substantive comment, evidence, documents, correspondence, or testimony to the local government during the local proceedings regarding a decision on an evaluation, work program or work task.
- (6) "Regional Solutions Team" means a team described in ORS 284.754.
- (7) "Work Program" means a detailed listing of tasks necessary to revise or amend the local comprehensive plan or land use regulations to ensure the plan and regulations achieve the statewide planning goals. A work program must indicate the date that each work task must be submitted to the department for review.
- (8) "Work Task" or "task" means an activity that is included on an approved work program and that generally results in an adopted amendment to a comprehensive plan or land use regulation.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.015 & 197.628 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0030

Periodic Review Schedule

(1) The commission must approve, and update as necessary, a schedule for periodic review. The schedule must include the date when the department, pursuant to ORS 197.629, must send a local government a letter requesting the local government to commence the periodic review process.

(2) Except as provided in OAR 660-038-0020(15), the schedule developed by the commission must reflect the following:

(a) A city with a population of more than 2,500 within a metropolitan planning organization or a metropolitan service district shall conduct periodic review every seven years after completion of the previous periodic review.

(b) A city with a population of 10,000 or more inside its urban growth boundary that is not within a metropolitan planning organization shall conduct periodic review every 10 years after completion of the previous periodic review.

(c) A county with a portion of its population within the urban growth boundary of a city subject to periodic review under this section shall conduct periodic review for that portion of the county according to the schedule and work program set for the city.

(d) Notwithstanding subsection (c) of this section, if the schedule set for the county is specific as to that portion of the county within the urban growth boundary of a city subject to periodic review under this section, the county shall conduct periodic review for that portion of the county according to the schedule and work program set for the county.

(3) The commission may establish a schedule that varies from the standards in section (2) of this rule if necessary to coordinate approved periodic review work programs or to account for special circumstances. The commission may schedule a local government's periodic review earlier than provided in section (2) of this rule if necessary to ensure that all local governments in a region whose land use decisions would significantly affect other local governments in the region are conducting periodic review concurrently, but not sooner than five years after completion of the previous periodic review.

(4) The director must maintain and implement the schedule. Copies of the schedule must be provided upon request.

(5) A city that is granted an exception to the requirements of this rule by OAR 660-038-0020(15) must complete an update of its comprehensive plan and land use regulations as provided in OAR 660-038-0210.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 3-2017, f. & cert. ef. 2-28-17

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0035

Initiating Periodic Review Outside the Schedule

(1) A local government may request, and the commission may approve, initiation of periodic review not otherwise provided for in the schedule established under OAR 660-025-0030. The request must be submitted to the commission along with justification for the requested action. The justification must include a statement of local circumstances that warrant periodic review and identification of the statewide planning goals to be addressed.

(2) A city may request, and the commission may approve, initiation of periodic review for the limited purpose of completing changes to proposed amendments to a comprehensive plan and land use regulations required on remand after review by the commission in the manner provided for review of a work task under ORS 197.626(1)(b) and OAR 660-025-0175(1)(b). If periodic review is initiated under this section, the city may adopt, and the director may approve, a work program that includes only the changes required on remand.

(3) In consideration of the request filed pursuant to section (1) or (2), the commission must consider the needs of the jurisdiction to address the issue(s) identified in the request for periodic review, the interrelationships of the statewide planning goals to be addressed in the periodic review project, and other factors the commission finds relevant. If the commission approves the request, the provisions of this division apply, except as provided in section (4) of this rule.

(4) The Regional Solutions Team may work with a city to create a voluntary comprehensive plan review that focuses on the unique vision of the city, instead of conducting a standard periodic review, if the team identifies a city that the team determines can benefit from a customized voluntary comprehensive plan review. In order for a voluntary comprehensive plan review to be initiated by the commission, the city must request initiation of such a modified periodic review. The provisions of this division apply except as follows:

(a) If the city is subject to the periodic review schedule in OAR 660-025-0030, the periodic review under this section will not replace or delay the next scheduled periodic review;

(b) If the city misses a deadline related to an evaluation, work program or work task, including any extension, the commission must terminate the evaluation, work program, or work task or impose sanctions pursuant to OAR 660-025-0170(3).

(5) If the commission pays the costs of a local government that is not subject to OAR 660-025-0030 to perform new work programs and work tasks, the commission may require the local government to complete periodic review when the local government has not completed periodic review within the previous five years if:

(a) A city has been growing faster than the annual population growth rate of the state for five consecutive years;

(b) A major transportation project on the Statewide Transportation Improvement Program that is approved for funding by the Oregon Transportation Commission is likely to:

(A) Have a significant impact on a city or an urban unincorporated community; or

(B) Be significantly affected by growth and development in a city or an urban unincorporated community;

(c) A major facility, including a prison, is sited or funded by a state agency; or

(d) Approval by the city or county of a facility for a major employer will increase employment opportunities and significantly affect the capacity of housing and public facilities in the city or urban unincorporated community.

(6) As used in section (5) of this rule, "the costs of a local government" means: normal and customary expenses for supplies, personnel and services directly related to preparing a work program, and completing studies and inventories, drafting of ordinances, preparing and sending notices of hearings and meetings, conducting meetings and workshops, and conducting hearings on possible adoption of amendments to plans or codes, to complete a work task.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

660-025-0040

Exclusive Jurisdiction of LCDC

(1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction for review of completed periodic review work tasks for compliance with the statewide planning goals and applicable statutes and administrative rules, as provided in ORS 197.633(3). The director also has authority to review the periodic review evaluation, work program and completed work tasks, as provided in ORS 197.633 and 197.644.

(2) Pursuant to ORS 197.626, the commission has exclusive jurisdiction for review of the following final decisions for compliance with the statewide planning goals:

(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within its urban growth boundary;

(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary including a sequential component as provided in ORS 197.626(3) and OAR 660-025-0185, except as provided by ORS 197A.325 and OAR 660-038-0020(10);

(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan service district or by a city with a population of 2,500 or more within its urban growth boundary;

(d) An amendment of the boundary of an urban reserve by a metropolitan service district;

(e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban reserve by a city with a population of 2,500 or more within its urban growth boundary; and

(f) A designation or an amendment to the designation of a rural reserve under ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service district, including an amendment of the boundary of a rural reserve.

(3) A final order of the commission pursuant to sections (1) or (2) of this rule may be subject to judicial review in the manner provided in applicable provisions of ORS 197.650 and 197.651.

(4) The director may transfer one or more matters arising from review of a work task, urban growth boundary amendment or designation or amendment of an urban reserve area to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-025-0250.

Statutory/Other Authority: ORS 197.040 & ORS 197.633

Statutes/Other Implemented: ORS 195.145, ORS 197.628 - 197.646, ORS 197.825, ORS 197A.325 & ORS 197.626

History:

[LCDD 2-2019, amend filed 01/28/2019, effective 02/01/2019](#)

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 1-2008, f. & cert. ef. 2-13-08

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0050

Commencing Periodic Review

(1) The department must commence the periodic review process by sending a letter to the local government pursuant to OAR 660-025-0030 or 660-025-0035. The department may provide advance notice to a local government of the upcoming review and must encourage local governments to review their citizen involvement provisions prior to beginning periodic review.

(2) The periodic review commencement letter must include the following information:

(a) A description of the requirements for citizen involvement, evaluation of the plan and preparation of a work program;

(b) The date the local government must submit the evaluation and work program or evaluation and decision that no work program is required;

(c) Applicable evaluation forms; and

(d) Other information the department considers relevant.

(3) The director must provide copies of the materials sent to the local government to interested persons upon written request.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0060

Periodic Review Assistance Team(s)

(1) The director may create one or more Periodic Review Assistance Team(s) to coordinate state, regional or local public agency comment, assistance, and information into the evaluation and work program development process. The director must seek input from agencies, regional governments and local governments on the membership of Periodic Review Assistance Team(s).

(2) Members of the Periodic Review Assistance Team will provide, as appropriate:

(a) Information relevant to the periodic review process;

(b) New and updated information;

(c) Technical and professional land use planning assistance; or

(d) Coordinated evaluation and comment from state agencies.

(3) Membership. The Periodic Review Assistance Team may include representatives of state agencies with programs affecting land use described in ORS 197.180, and representatives of regional or local governments who may have an interest in the review.

(4) Meetings. The Periodic Review Assistance Team shall meet as necessary to provide information and advice to a local government in periodic review.

(5) Authority. The Periodic Review Assistance Team shall be an advisory body. The team may make recommendations concerning an evaluation, a work program or work task undertaken pursuant to an approved work

program. The team may also make recommendations to cities, counties, state agencies and the commission regarding any other issues related to periodic review.

(6) In addition to the Periodic Review Assistance Team(s), the department may utilize the Regional Solutions Team or institute an alternative process for coordinating agency participation in the periodic review of comprehensive plans.

(7) The commission must consider the recommendations, if any, of the Periodic Review Assistance Team(s).

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0070

Need for Periodic Review

(1) The following conditions indicate the need for periodic review of comprehensive plans and land use regulations when periodic review is required under OAR 660-025-0030:

(a) There has been a substantial change in circumstances including but not limited to the conditions, findings, or assumptions upon which the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization;

(b) Decisions based on acknowledged comprehensive plan and land use regulations are inconsistent with the goals relating to economic development, needed housing, transportation, public facilities and services and urbanization;

(c) There are issues of regional or statewide significance, intergovernmental coordination, or state agency plans or programs affecting land use which must be addressed in order to bring comprehensive plans and land use regulations into compliance with the goals relating to economic development, needed housing, transportation, public facilities and services and urbanization; or

(d) The local government, commission or department determines that the existing comprehensive plan and land use regulations are not achieving the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization.

(2) When a local government requests initiation of periodic review under OAR 660-025-0035, the need for periodic review may be based on factors not contained in section (1) of this rule and the scope of such a periodic review may be more limited than would be the case for scheduled periodic review under section (1) of this rule.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0080

Notice and Citizen Involvement

(1) The local government must use its acknowledged citizen involvement program, or amend the program if necessary consistent with section (2) of this rule, to provide adequate participation opportunities for citizens and other interested persons in all phases of the local periodic review. Each local government must publish a notice in a newspaper of general circulation within the community informing citizens about the initiation of the local periodic review. The local government must also provide written notice of the initiation of the local periodic review to persons who request, in writing, such notice.

(2) Each local government must review its citizen involvement program at the beginning of its periodic review and, if necessary, amend the program to ensure it will provide adequate opportunities for citizen involvement in all phases of the periodic review process. Citizen involvement opportunities must, at a minimum, include:

(a) Interested persons must have the opportunity to review materials in advance and to comment in writing in advance of or at one or more hearings on the periodic review evaluation. Citizens and other interested persons must have the opportunity to present comments orally at one or more hearings on the periodic review evaluation. Citizens and other interested persons must have the opportunity to propose periodic review work tasks prior to or at one or more hearings. The local government must provide a response to comments at or following the hearing on the evaluation.

(b) Interested persons must have the opportunity to review materials in advance and to comment in writing in advance of or at one or more hearings on a periodic review work task. Citizens and other interested persons must

have the opportunity to present comments orally at one or more hearings on a periodic review work task. The local government must respond to comments at or following the hearing on a work task.

(3) A local government proposing to change an acknowledged comprehensive plan or a land use regulation under a work task must provide notice of the proposed change to the department 35 days in advance of the first evidentiary hearing, as provided in ORS 197.610 and OAR 660-018-0020.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0085

Commission Hearings Notice and Procedures

(1) Hearings before the commission on a referral of a local government submittal of a work program or hearings on referral or appeal of a work task must be noticed and conducted in accordance with this rule.

(2) The commission shall take final action on an appeal or referral of a completed work task within 90 days of the date the appeal was filed or the director issued notice of the referral unless:

(a) At the request of a local government and a person who files a valid objection or appeals the director's decision, the department may provide mediation services to resolve disputes related to the appeal. Where mediation is underway, the commission shall delay its hearing until the mediation process is concluded or the director, after consultation with the mediator, determines that mediation is of no further use in resolution of the work program or work task disagreements;

(b) If the appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit the commission is not required to take final action within that time limit; or

(c) If the parties to the appeal and the commission agree to an extension, the hearing may be continued for a period not to exceed an additional 90 days.

(3) The director must provide written notice of the hearing to the local government, the appellant, objectors, and individuals requesting notice in writing. The notice must contain the date and location of the hearing.

(4) The director may prepare a written report to the commission on an appeal or referral. If a report is prepared, the director must send a copy to the local government, objectors, the appellant, and individuals requesting the report in writing.

(5) Commission hearings will be conducted using the following procedures:

(a) The chair will open the hearing and explain the proceedings;

(b) The director or designee will present an oral report regarding the nature of the matter before the commission, an explanation of the director's decision, if any, and other information to assist the commission in reaching a decision. If another state agency participated in the periodic review under ORS 197.637 or 197.638, the agency may participate in the director's oral report.

(c) Participation in the hearing is limited to:

(A) The local government or governments whose decision is under review;

(B) Persons who filed a valid objection to the local decision in the case of commission hearing on a referral;

(C) Persons who filed a valid appeal of the director's decision in the case of a commission hearing on an appeal; and

(D) Other affected local governments.

(d) Standing to file an appeal of a work task is governed by OAR 660-025-0150.

(e) Persons or their authorized representative may present oral argument.

(f) The local government that submitted the task may provide general information from the record on the task submittal and address those issues raised in the department review, objections, or the appeal. A person who submitted objections or an appeal may address only those issues raised in the objections or the appeal submitted by that person. Other affected local governments may address only those issues raised in objections or an appeal.

(g) As provided in ORS 197.633(3), the commission will confine its review of evidence to the local record.

(h) The director or commission may take official notice of law defined as:

(A) The decisional, constitutional and public statutory law of Oregon, the United States and any state, territory or other jurisdiction of the United States.

(B) Public and private official acts of the legislative, executive and judicial departments of this state, the United States, and any other state, territory or other jurisdiction of the United States.

(C) Regulations, ordinances and similar legislative enactments issued by or under the authority of the United States or any state, territory or possession of the United States.

(D) Rules of court of any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

(E) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(F) An ordinance, comprehensive plan or enactment of any local government in this state, or a right derived therefrom.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

660-025-0090

Evaluation, Work Program or Decision that No Work Is Necessary

(1) The local government must conduct an evaluation of its plan and land use regulations based on the periodic review conditions in ORS 197.628 and OAR 660-025-0070. The local evaluation process must comply with the following requirements:

(a) The local government must follow its citizen involvement program and the requirements of OAR 660-025-0080 for conducting the evaluation and determining the scope of a work program.

(b) The local government must provide opportunities for participation by the department and Periodic Review Assistance Team. The local government must consider issues related to coordination between local government comprehensive plan provisions and certified state agency coordination programs that are raised by the affected agency or Periodic Review Assistance Team.

(c) The local government may provide opportunities for participation by the Regional Solutions Team.

(d) At least 21 days before submitting the evaluation and work program, or decision that no work program is required, the local government must provide copies of the evaluation to members of the Periodic Review Assistance Team, if formed, and others who have, in writing, requested copies.

(e) After review of comments from interested persons, the local government must adopt an evaluation and work program or decision that no work program is required.

(2) The local government must submit the evaluation and work program, or decision that no work program is required, to the department according to the following requirements:

(a) The evaluation must include completed evaluation forms that are appropriate to the jurisdiction as determined by the director. Evaluation forms will be based on the jurisdiction's size, growth rate, geographic location, and other factors that relate to the planning situation at the time of periodic review. Issues related to coordination between local government comprehensive plan provisions and certified agency coordination programs may be included in evaluation forms.

(b) The local government must also submit to the department a list of persons who requested notice of the evaluation and work program or decision that no work program is required.

(c) The evaluation and work program, or decision that no work program is necessary, must be submitted within six months of the date the department sent the letter initiating the periodic review process, including any extension granted under section (3) of this rule.

(3) A local government may request an extension of time for submitting its evaluation and work program, or decision that no work program is required. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than 90 days.

(4) A decision by the director to deny a request for an extension may be appealed to the commission according to the procedures in OAR 660-025-0110(5), or the director may refer a request for extension under section (3) of this rule to the commission pursuant to OAR 660-025-0085.

(5) If a local government fails to submit its evaluation and work program, or decision that no work program is necessary, by the deadline set by the director or the commission, including any extension, the director shall schedule a hearing before the commission according to OAR 660-025-0170(3).

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16
LCDD 4-2012, f. & cert. ef. 2-14-12
LCDD 4-2006, f. & cert. ef. 5-15-06
LCDD 3-2000, f. & cert. ef. 2-14-00
LCDC 6-1995, f. & cert. ef. 6-16-95
LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0100

Notice and Filing of Objections (Work Program Phase)

(1) After the local government approves the evaluation and work program, or the evaluation and decision that no work program is necessary, the local government must notify the department and persons who participated at the local level orally or in writing during the local process. The local government notice must contain the following information:

(a) Where a person can review a copy of the local government's evaluation and work program or the evaluation and decision that no work program is necessary, and how a person may obtain a copy of the decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the evaluation, work program or decision that no work program is necessary; and

(c) That objectors must give a copy of the objection to the local government.

(2) Persons who participated at the local level orally or in writing during the local process leading to the evaluation and work program or decision that no work program is necessary may object to the local government's decision. To be valid, an objection must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the notice was mailed by the local government;

(b) Clearly identify an alleged deficiency in the evaluation, work program or decision that no work program is necessary;

(c) Suggest a specific work task that would resolve the deficiency;

(d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

(3) Objections that do not meet all the requirements of section (2) of this rule will not be considered by the director or commission.

(4) If the department does not receive any valid objections within the 21-day objection period, the director may approve the evaluation and work program or decision that no work program is required. Regardless of whether valid objections are received, the department must make its own determination of the sufficiency of the evaluation and work program or determination that no work program is necessary.

(5) If the department receives one or more valid objections, the department must issue a report that addresses the issues raised in valid objections. The report must identify specific work tasks to resolve valid objections or department concerns. A valid objection must either be sustained or rejected by the department or commission based on the statewide planning goals and related statutes and administrative rules.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12
LCDD 8-2011, f. & cert. ef. 10-20-11
LCDD 4-2006, f. & cert. ef. 5-15-06
LCDD 3-2000, f. & cert. ef. 2-14-00
LCDC 6-1995, f. & cert. ef. 6-16-95
LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0110

Director and Commission Action (Work Program Phase)

(1) In response to an evaluation and work program submitted to the department pursuant to OAR 660-025-0100, the director may:

(a) Issue an order approving the evaluation and work program or determination that no work program is necessary; or

(b) Issue an order rejecting the evaluation and work program or determination that no work program is necessary and suggest modifications to the local government including a date for resubmittal.

(2) The director may postpone action, pursuant to section (1) of this rule to allow the department, the jurisdiction, objectors or other persons who participated orally or in writing at the local level to reach agreement on specific issues relating to the evaluation and work program or determination that no work program is necessary.

(3) The director must provide written notice of the decision to the local government persons who filed objections, and persons who requested notice of the local government decision.

(4) The director's decision to approve an evaluation and work program or determination that no work program is necessary is final and may not be appealed.

(5) The director's decision to deny an evaluation and work program or determination that no work program is necessary may be appealed to the commission by the local government, or a person who filed an objection, or other person who participated orally or in writing at the local level.

(a) Appeal of the director's decision must be filed with the department within 21 days of the date notice of the director's action was mailed;

(b) A person appealing the director's decision must show that the person participated in the local government decision. The person appealing the director's decision must show a deficiency in the director's decision to deny the evaluation, work program or decision that no work program is necessary. The person appealing the director's decision also must suggest a specific modification to the evaluation, work program or decision that no work program is necessary to resolve the alleged deficiency.

(6) If no such appeal is filed, the director's decision shall be final.

(7) In response to an appeal, the director may prepare and submit a report to the commission. The provisions in OAR 660-025-0160(4) and (5) apply.

(8) The commission shall hear referrals and appeals of evaluations and work programs according to the procedures in OAR 660-025-0085.

(9) Following its hearing, the commission must issue an order that either:

(a) Establishes a work program; or

(b) Determines that no work program is necessary.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0130

Submission of Completed Work Task

(1) A local government must submit completed work tasks as provided in the approved work program or a submittal pursuant to OAR 660-025-0175 to the department along with the notice required in OAR 660-025-0140 and any form required by the department. A local government must submit to the department a list of persons who participated orally or in writing in the local proceedings leading to the adoption of the work task or who requested notice of the local government's final decision on a work task.

(2) After receipt of a work task or a submittal pursuant to OAR 660-025-0175, the department must determine whether the submittal is complete.

(3) For a periodic review task to be complete, a submittal must be a final decision containing all required elements identified for that task in the work program. The department may accept a portion of a task or subtask as a complete submittal if the work program identified that portion of the task or subtask as a separate item for adoption by the local government. All submittals required by section (1) of this rule are subject to the following requirements:

(a) If the local record does not exceed 2,000 pages, a submittal must include the entire local record, including but not limited to adopted ordinances and orders, studies, inventories, findings, staff reports, correspondence, hearings minutes, written testimony and evidence, and any other items specifically listed in the work program;

(b) If the local record exceeds 2,000 pages, a submittal must include adopted ordinances, resolutions, and orders; any amended comprehensive or regional framework plan provisions or land use regulations; findings; hearings minutes; materials from the record that the local government deems necessary to explain the submittal or cites in its findings; and a detailed index listing all items in the local record and indicating whether or not the item is included in the submittal. All items in the local record must be made available for public review during the period for submitting objections under OAR 660-025-0140. The director or commission may require a local government to submit any materials from the local record not included in the initial submittal;

(c) A submittal of over 500 pages must include an index of all submitted materials. Each document must be separately indexed, in chronological order, with the last document on the top. Pages must be consecutively numbered at the bottom of the page;

(d) If the submittal is a final decision on an urban growth boundary amendment under OAR 660-025-0175(1)(b), and the local governments submitting the amendment received one or more task approvals pursuant to OAR 660-025-

0185 for components of the amendment, the submittal must include, and the record for the approved components of the urban growth boundary amendment is limited to:

(A) The approved local ordinance or ordinances that received task approval including exhibits attached thereto (e.g., residential land need analysis, economic opportunities analysis, response to deficiency); and

(B) The final order of the director or commission approving the task.

(4) A submittal includes only the materials provided to the department pursuant to section (3) of this rule. Following submission of objections pursuant to OAR 660-025-0140, the local government may:

(a) Provide written correspondence that is not part of the local record which identifies material in the record relevant to filed objections. The correspondence may not include or refer to materials not in the record submitted or listed pursuant to section (3) of this rule. The local government must provide the correspondence to each objector at the same time it is sent to the department.

(b) Submit materials in the record that were not part of the submittal under section (3) if the materials are relevant to one or more filed objections. The local government may not include or refer to materials not in the local record. The local government must provide the materials to each objector at the same time it is sent to the department.

(5) If the department determines that a submittal is incomplete, it must notify the local government. If the department determines that the submittal should be reviewed despite missing information, the department may commence a formal review of the submittal. Missing material may be identified as a deficiency in the review process and be a basis to require further work by the local government.

(6) A local government may request an extension of time for submitting a work task. The director may grant the request if the local government shows good cause for the extension. A local government may be permitted only one extension, which shall be for no more than one year.

(7) If a local government fails to submit a complete work task by the deadline set by the director, or the commission, including any extension, the director must schedule a hearing before the commission. The hearing must be conducted according to the procedures in OAR 660-025-0170(3).

Statutory/Other Authority: ORS 197.040 & ORS 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646 & ORS 197.626(3)

History:

[LCDD 2-2019, amend filed 01/28/2019, effective 02/01/2019](#)

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0140

Notice and Filing of Objections (Work Task Phase)

(1) After the local government makes a final decision on a work task or comprehensive plan amendment listed in ORS 197.626(1) and OAR 660-025-0175, the local government must notify the department and persons who participated at the local level orally or in writing during the local process or who requested notice in writing. The local government notice must contain the following information:

(a) Where a person can review a copy of the local government's final decision, and how a person may obtain a copy of the final decision;

(b) The requirements listed in section (2) of this rule for filing a valid objection to the work task or comprehensive plan amendment listed in OAR 660-025-0175; and

(c) That objectors must give a copy of the objection to the local government.

(2) Persons who participated orally or in writing in the local process leading to the final decision may object to the local government's submittal. To be valid, objections must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the local government sent the notice;

(b) Clearly identify an alleged deficiency in the work task or adopted comprehensive plan amendment sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;

(c) Suggest specific revisions that would resolve the objection; and

(d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.

(3) Objections that do not meet the requirements of section (2) of this rule will not be considered by the director or commission.

(4) If no valid objections are received within the 21-day objection period, the director may approve the submittal. Regardless of whether valid objections are received, the director may make a determination of whether the final decision complies with the statewide planning goals and applicable statutes and administrative rules.

(5) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal, applicable statute or administrative rule related to a previous work task, the director or commission shall not approve the submittal until all conflicts and compliance issues are resolved. In such case, the director or commission may enter an order deferring acknowledgment of all, or part, of the work task until completion of additional tasks.

(6) If valid objections are received or the department conducts its own review, the department must issue a report. The report shall address the issues raised in valid objections. The report shall identify specific work tasks or measures to resolve valid objections or department concerns. A valid objection shall either be sustained or rejected by the department or commission based on the statewide planning goals, or applicable statutes or administrative rules.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.626 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0150

Director Action and Appeal of Director Action (Work Task Phase)

(1) In response to a completed work task or other plan amendment submitted to the department for review in accordance with OAR 660-025-0140, the director may:

- (a) Issue an order approving the completed work task or plan amendment;
- (b) Issue an order remanding the work task or plan amendment to the local government including, for a work task only, a date for resubmittal;
- (c) Refer the work task or plan amendment to the commission for review and action; or
- (d) The director may issue an order approving portions of the completed work task or plan amendment provided these portions are not affected by an order remanding or referring the completed work task.

(2) The director must send the order to the local government, persons who filed objections and persons who, in writing, requested a copy of the action.

(3) The director shall take action on, and the order or referral must be sent, not later than 120 days of the date the department received the task submittal from the local government, unless the local government waives the 120-day deadline or the commission grants the director an extension. The local government may withdraw the submittal, in which case the 120-day deadline does not apply, provided the withdrawal will not result in the local government passing the deadline for work task submittal in the work program and any extension allowed in OAR 660-025-0130(6).

(4) If the director does not issue an order or refer the work task within the time limits set by section (3) of this rule, and the department did not receive any valid objections to the work task, the work task shall be deemed approved. In such cases, the department will provide a letter to the local government certifying that the work task is approved.

(5) If the department received one or more valid objections to the work task or plan amendment, the director must either issue an order within the time limits set by section (3) of this rule or refer the work task or plan amendment to the commission for review.

(6) Appeals of a director's decision are subject to the following requirements:

- (a) A director's decision approving or partially approving a work task or plan amendment may be appealed to the commission only by a person who filed a valid objection.
- (b) A director's decision remanding or partially remanding a work task or plan amendment may be appealed to the commission only by the local government, a person who filed a valid objection, or by another person who participated orally or in writing in the local proceedings leading to adoption of the local decision under review.
- (c) Appeals of a director's decision must be filed with the department's Salem office within 21 days of the date the director's action was sent;

(d) A person, other than the local government that submitted the work task or plan amendment and an affected local government, appealing the director's decision must:

(A) Show that the person participated in the local proceedings leading to adoption of the work task or plan amendment orally or in writing;

(B) Clearly identify a deficiency in the work task or plan amendment sufficiently to identify the relevant section of the submittal and the statute, goal, or administrative rule the local government is alleged to have violated; and

(C) Suggest a specific modification to the work task or plan amendment necessary to resolve the alleged deficiency.

(7) If no appeal to the commission is filed within the time provided by section (6) of this rule, the director's order is deemed affirmed by the commission. If the order approved a submittal, the work task or plan amendment is deemed acknowledged.

(8) When a subsequent work task conflicts with a work task that has been deemed acknowledged, or violates a statewide planning goal, applicable statute or administrative rule related to a previous work task, the director or commission shall not approve the submittal until all conflicts and compliance issues are resolved. In such case, the director or commission may enter an order deferring acknowledgment of all, or part, of the subsequent work task until completion of additional tasks.

(9) The director's standard of review is the same as the standard that governs the commission expressed in OAR 660-025-0160(2).

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.626 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0160

Commission Review of Referrals and Appeals (Work Task Phase)

(1) The commission shall hear appeals and referrals of work tasks or other plan amendments according to the applicable procedures in OAR 660-025-0085 and 660-025-0150.

(2) The commission's standard of review, as provided in ORS 197.633(3), is:

(a) For evidentiary issues, whether there is substantial evidence in the record as a whole to support the local government's decision.

(b) For procedural issues, whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.

(c) For issues concerning compliance with applicable laws, whether the local government's decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. The commission shall defer to a local government's interpretation of its comprehensive plan or land use regulation in the manner provided in ORS 197.829 or to Metro's interpretation of its regional framework plan or functional plans. For purposes of this subsection, "complies" has the meaning given the term "compliance" in the phrase "compliance with the goals" in ORS 197.747.

(3) In response to a referral or appeal, the director may prepare and submit a report to the commission.

(4) The department must send a copy of the report to the local government, all persons who submitted objections, and other persons who appealed the director's decision. The department must send the report at least 21 days before the commission meeting to consider the referral or appeal.

(5) The persons specified in OAR 660-025-0085(5)(c) may file written exceptions to the director's report within 10 days of the date the report is sent. Objectors may refer to or append to their exceptions any document from the local record, whether or not the local government submitted it to the department under OAR 660-025-0130. The director may issue a response to exceptions and may make revisions to the director's report in response to exceptions. The department may provide the commission a response or revised report at or prior to its hearing on the referral or appeal. A revised director's report is not required to be sent at least 21 days prior to the commission hearing.

(6) The commission shall hear appeals based on the local record. The written record shall consist of the submittal, timely objections, the director's report, timely exceptions to the director's report including materials described in section (5) of this rule, the director's response to exceptions and revised report if any, and the appeal if one was filed.

(7) Following its hearing, the commission must issue an order that does one or more of the following:

(a) Approves the work task or plan amendment or a portion of the task or plan amendment;

- (b) Remands the work task or plan amendment or a portion of the task or plan amendment to the local government, including, for a work task only, a date for resubmittal;
- (c) Requires specific plan or land use regulation revisions to be completed by a specific date. Where specific revisions are required, the order shall specify that no further review is necessary. These changes are final when adopted by the local government. The failure to adopt the required revisions by the date established in the order shall constitute failure to complete a work task or plan amendment by the specified deadline requiring the director to initiate a hearing before the commission according to the procedures in OAR 660-025-0170(3);
- (d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or
- (e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

(8) If the commission approves the work task or plan amendment or portion of a work task or plan amendment under subsection (7)(a) of this rule and no appeal to the Court of Appeals is filed within the time provided in ORS 197.651, the work task or plan amendment or portion of a work task or plan amendment shall be deemed acknowledged. If the commission decision on a work task or plan amendment is under subsection (7)(b) through (e) of this rule and no appeal to the Court of Appeals is filed within the time provided in ORS 197.651, the decision is final.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.626 - 197.646

History:

LCDD 2-2016, f. & cert. ef. 2-10-16
LCDD 4-2012, f. & cert. ef. 2-14-12
LCDD 8-2011, f. & cert. ef. 10-20-11
LCDD 4-2006, f. & cert. ef. 5-15-06
LCDD 3-2004, f. & cert. ef. 5-7-04
LCDD 3-2000, f. & cert. ef. 2-14-00
LCDC 6-1995, f. & cert. ef. 6-16-95
LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0170

Modification of an Approved Work Program, Extensions, and Sanctions for Failure to Meet Deadlines

- (1) The commission may direct, or, upon request of the local government, the director may authorize, a local government to modify an approved work program when:
- (a) Issues of regional or statewide significance arising out of another local government's periodic review requires an enhanced level of coordination;
 - (b) Issues of goal compliance are raised as a result of completion of a work task resulting in a need to undertake further review or revisions;
 - (c) Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision; or
 - (d) Issues relating to needed housing, economic development, transportation, public facilities and services, or urbanization were omitted from the work program but must be addressed in order to ensure compliance with the statewide planning goals.
- (2) Failure to complete a modified work task shall constitute failure to complete a work task by the specified deadline, requiring the director to initiate a hearing before the commission according to the procedures in section (3).
- (3) If a local government fails to submit its evaluation and work program, a decision that no work program is necessary, or a work task by the deadline set by the director or the commission, including any extension, the director shall schedule a hearing before the commission. The notice must state the date and location at which the commission will conduct the hearing. The hearing will be conducted pursuant to OAR 660-025-0085 and as follows:
- (a) The director shall notify the local government in writing that its submittal is past due and that the commission will conduct a hearing and consider imposing sanctions against the local government as required by ORS 197.636(2);
 - (b) The director and the local government may prepare written statements to the commission addressing the circumstances causing the local government to miss the deadline and the appropriateness of any of the sanctions listed in ORS 197.636(2). The written statements must be filed in a manner and according to a schedule established by the director;
 - (c) The commission shall issue an order imposing one or more of the sanctions listed in ORS 197.636(2) until the local government submits its evaluation and work program or its decision that no work program is required, or its work task required under OAR 660-025-0130, as follows:
 - (A) Require the local government to apply those portions of the goals and rules to land use decisions as specified in an order issued by the commission,
 - (B) Forfeiture of all or a portion of the grant money received to conduct the review, develop the work program or complete the work task,

(C) Completion of the work program or work task by the department. The commission may require the local government to pay the cost for completion of work performed by the department, following the withholding process set forth in ORS 197.335(4),

(D) Application of such interim measures as the commission deems necessary to ensure compliance with the statewide planning goals.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDD 1-1998, f. & cert. ef. 4-15-98

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0175

Review of UGB Amendments and Urban Reserve Area Designations

(1) A local government must submit the following land use decisions to the department for review for compliance with the applicable statewide planning goals, statutes and rules in the manner provided for review of a work task under ORS 197.633:

(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within its urban growth boundary;

(b) An amendment of an urban growth boundary by a city with a population of 2,500 or more within its urban growth boundary that adds more than 50 acres to the area within the urban growth boundary, except as provided by ORS 197A.325 and OAR 660-038-0020(10);

(c) A designation of an area as an urban reserve under ORS 195.137 to 195.145 by a metropolitan service district or by a city with a population of 2,500 or more within its urban growth boundary;

(d) An amendment of the boundary of an urban reserve by a metropolitan service district;

(e) An amendment of the boundary of an urban reserve to add more than 50 acres to the urban reserve by a city with a population of 2,500 or more within its urban growth boundary; and

(f) A designation or an amendment to the designation of a rural reserve under ORS 195.137 to 195.145 by a county, in coordination with a metropolitan service district, including an amendment of the boundary of a rural reserve.

(2) A local government may submit a comprehensive plan amendment or land use regulation amendment to the department for review for compliance with the applicable statewide planning goals, statutes and rules in the manner provided for review of a work task under ORS 197.633 when it is a task on a work program for sequential submittal of an urban growth boundary as provided in ORS 197.626(3) and OAR 660-025-0185.

(3) The standards and procedures in this rule govern the local government process and submittal, and department and commission review.

(4) The local government must provide notice of the proposed amendment according to the procedures and requirements for post-acknowledgement plan amendments in ORS 197.610 and OAR 660-018-0020.

(5) The local government must submit its final decision amending its comprehensive plan or urban growth boundary, or designating urban reserve areas, to the department according to all the requirements for a work task submittal in OAR 660-025-0130 and 660-025-0140.

(6) Department and commission review and decision on the submittal from the local government must follow the procedures and requirements for review and decision of a work task submittal in OAR 660-025-0085, 660-025-0140 to 660-025-0160, and 660-025-0185.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 195.145, ORS 197.626 – 197.646 & 197A.325

History:

LCDD 2-2019, amend filed 01/28/2019, effective 02/01/2019

LCDD 2-2016, f. & cert. ef. 2-10-16

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDD 3-2000, f. & cert. ef. 2-14-00

660-025-0180

Stay Provisions

(1) When a local government makes a final decision on a work task or portion of a work task that is required by, or carries out, an approved work program, or if the local government is required to submit a final decision to the department under OAR 660-025-0175(1), interested persons may request a stay of the local government's final decision by filing a request for a stay with the commission. In taking an action on a request to stay a local government's final decision on a work task, the commission must use the standards and procedures contained in OAR chapter 660, division 1.

(2) The director may grant a temporary stay of a final decision on a local government decision described in section (1) of this rule. A temporary stay must meet applicable stay requirements of the Administrative Procedures Act. A temporary stay issued by the director shall only be effective until the commission has acted on a stay request pursuant to section (1) of this rule.

Statutory/Other Authority: ORS 197.040 & 197.633

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0185

Review of Urban Growth Boundary Amendment Components

(1) A city with a population over 2,500 within its urban growth boundary, in coordination with the county or counties containing the urban growth boundary, may elect to submit a land need analysis pursuant to OAR 660-024-0040, a land inventory pursuant to OAR 660-024-0050, or a response to deficiency pursuant to OAR 660-024-0050, or a combination thereof, to the department, separately as provided in this rule.

(2) A city and a county or counties may elect to submit a component of an urban growth boundary amendment under section (1) when the city and county determine that the final urban growth boundary amendment is likely to exceed 50 acres. The local governments must submit written notice of election to use the sequential review process contained in this rule to the department prior to submittal of a component for review. The notice of election shall propose the planning period for the amendment and include a draft work program.

(3) Upon joint written notice pursuant to section (2), the department will prepare a work program consisting of tasks to complete one or more of: land need analyses, land inventories, and responses to deficiency. For the purposes of this rule, a "work program" does not include the date that each work task must be submitted to the department for review.

(a) The work program is not subject to the requirements of OAR 660-025-0090 through 660-025-0110.

(b) The work program will specify the planning period for the affected urban growth boundary amendment. The beginning of this planning period is the date initially scheduled for completion of the legislative review for the purposes of compliance with ORS 197.296.

(c) In developing the work program, the department will:

(A) Coordinate with the city and county or counties, and the needs of the local governments will be accommodated as much as possible; and

(B) Consider the tasks necessary to complete the urban growth boundary amendment based on the scope of the proposal under OAR 660-024-0040(3).

(4) The director will issue the work program within 120 days after receipt of the joint written notification under section (2). The director's decision on the work program is final and may not be appealed.

(5) The product of each task on the work program shall be a change to a comprehensive plan or land use regulation or a new land use regulation adopted by the city and adopted by the county or counties if required. The local governments must submit the task and notice of the task adoption to the department in the manner provided for a periodic review task in OAR 660-025-0130 and 660-025-0140.

(6) A director's decision on a submitted task and appeals of a director's task decision are subject to OAR 660-025-0150 and 660-025-0160 except:

(a) Notwithstanding OAR 660-025-0150(3), the director must take an action, and the order or referral must be sent, within 90 days after the local government submits the task for review unless the local government waives the 90-day deadline or the commission grants the director an extension.

(b) Notwithstanding OAR 660-025-0150(4), if the director does not issue an order or refer the task within the time limit set by subsection (6)(a), and the department did not receive any valid objections to the task, the task shall be deemed approved. In such cases, the department will provide a letter to the local government certifying that the task is approved.

(c) Notwithstanding OAR 660-025-0150(5), if the department received one or more valid objections to the task, the director must either issue an order within the time limits set by subsection (6)(a) of this rule or refer the task to the commission for review.

(7) For the purposes of demonstrating compliance with OAR 660-024-0040 and 660-024-0050 for an urban growth boundary amendment, a task approval is valid for four years. This period may be extended for up to one year by the director if the local governments show good cause for the extension. The four-year period begins on the later date of:

- (a) Director approval order;
- (b) Commission final approval order; or
- (c) Completion of judicial review of the final approval order.

(8) A task approval will not demonstrate compliance with OAR 660-024-0040 or 660-024-0050 for an urban growth boundary amendment that adds 50 or fewer acres to the area within the urban growth boundary.

Statutory/Other Authority: ORS 197.040 & ORS 197.633(2)

Statutes/Other Implemented: ORS 197.626(3)

History:

LCDD 2-2019, adopt filed 01/28/2019, effective 02/01/2019

660-025-0210

Updated Planning Documents

(1) Pursuant to ORS 195.025 and 195.040 and the legislative policy described in ORS 197.010 and 197.633, each local government must file a complete and accurate copy of its comprehensive plan and land use regulations bearing the date of adoption (including plan and zone maps bearing the date of adoption) with the department following completion of periodic review. These materials may be either a new printing or an up-to-date compilation of the required materials, and must include data described in OAR 660-018-0040(4), if applicable.

(2) Local governments that create or alter zoning or comprehensive plan maps as geospatial data are encouraged but not required to share this data with the department, except for geospatial data describing an urban growth boundary or urban or rural reserve that is created or altered under a completed work task, in which case the submission must include electronic geospatial data depicting the boundary change. Geospatial data submitted to the department must comply with the following standards endorsed by the Oregon Geographic Information Council:

- (a) The data must be in an electronic format compatible with the State's Geographic Information System software standard described in OAR 125-600-7550; and
 - (b) The data must be accompanied by metadata that meets at least the minimum requirements of the federal Content Standard for Digital Geospatial Metadata.
- (3) Materials described in sections (1) and (2) of this rule must be submitted to the department within six months of completion of the last work task.
- (4) The updated plan must be accompanied by a statement signed by a city or county official certifying that the materials are an accurate copy of current planning documents and that they reflect the changes made as part of periodic review.

(5) Jurisdictions that do not file an updated plan on time shall not be eligible for periodic review grants from the department until such time as the required materials are provided to the department.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.190, 197.270 & 197.628 -197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDC 6-1995, f. & cert. ef. 6-16-95

LCDC 1-1992, f. & cert. ef. 1-28-92

660-025-0220

Computation of Time

(1) For the purposes of OAR chapter 660, division 25, periodic review rule, unless otherwise provided by rule, the time to complete required tasks, notices, objections, and appeals shall be computed as follows. The first day of the designated period to complete the task, notice, objection or appeal shall not be counted. The last day of the period shall be counted unless it is a Saturday, Sunday or legal holiday under ORS 187.010 or 187.020. In that event the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday. When the period of time to complete the task is less than seven (7) days, intervening Saturdays, Sundays or legal holidays shall not be counted.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 174.120, 187.010, 187.020 & 197.628 - 197.650

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

660-025-0230

Applicability

(1) Except as otherwise required by law, amendments to this division apply as follows:

(a) Local governments in periodic review that have not submitted an evaluation and work program, or decision that no work program is required, must apply the amendments to the evaluation and work program or decision that no work program is required;

(b) Local governments in periodic review must apply amendments to work tasks not completed or submitted to the department on the effective date of the amendments;

(c) The commission may modify approved work programs to carry out the priorities and standards reflected in amendments;

(d) The procedures and standards in amendments for department and commission review and action on periodic review submittals, requests for extensions, and late submittals apply to all such submittals and requests filed with the department after the effective date of the amendments, as well as any such submittals and requests awaiting initial department action on the effective date of the amendments.

Statutory/Other Authority: ORS 197.040-197.245

Statutes/Other Implemented: ORS 197.628 - 197.646

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 8-2011, f. & cert. ef. 10-20-11

LCDD 4-2006, f. & cert. ef. 5-15-06

LCDD 3-2000, f. & cert. ef. 2-14-00

660-025-0250

Transfer of Matters to the Land Use Board of Appeals

(1) The director may elect to transfer a matter to the Land Use Board of Appeals (board) under ORS 197.825(2)(c) (A), including but not limited to an appeal of the director's decision pursuant to OAR 660-025-0150(6).

(2) The director may transfer matters to the board when:

(a) The matter is an urban growth boundary expansion approved by the local government based on a quasi-judicial land use application and does not require an interpretation of first impression of statewide planning Goal 14, ORS 197.296 or 197.298; or

(b)(A) The matter concerns a provision of law not directly related to compliance with a statewide planning goal;

(B) The matter is an appeal of the director's decision and concerns a clearly identified provision of the work task submittal that is alleged to violate a provision of law and clearly identifies the provision of law that is alleged to have been violated; and

(C) The matter is sufficiently well-defined such that it can be separated from other issues in the work task that are not transferred to the board.

(3) When the director elects to transfer a matter to the board, notice of the decision must be sent to the local jurisdiction, the appellant, any objectors, and the board. The notice shall include identification of the matter to be transferred and explanation of the procedures and deadline for appeal of the matter to the board.

(4) The director's decision under this rule is final and may not be appealed.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.825

History:

LCDD 4-2012, f. & cert. ef. 2-14-12

LCDD 4-2006, f. & cert. ef. 5-15-06

82nd OREGON LEGISLATIVE ASSEMBLY--2023 Regular Session

Enrolled Senate Bill 4

Sponsored by Senator SOLLMAN, Representative BYNUM, Senator KNOPP, Representative WALLAN; Senators CAMPOS, LIEBER, MEEK, Representatives HIEB, SOSA

CHAPTER

AN ACT

Relating to economic development; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in sections 1 to 6 of this 2023 Act:

(a) “Covered entity” has the meaning given that term by 15 U.S.C. 4651(2).

(b) “Covered incentive” has the meaning given that term by 15 U.S.C. 4651(3).

(c) “Federal semiconductor financial assistance” means assistance available under the program established pursuant to 15 U.S.C. 4652(a)(1) for financial assistance to the semiconductor industry.

(d) “Program grants and loans” means grants awarded and loans made under the program developed by the Oregon Business Development Department pursuant to this section.

(2)(a) The Oregon Business Development Department shall develop a program to award grants and make loans from moneys in the Oregon CHIPS Fund established under section 6 of this 2023 Act to businesses applying for federal semiconductor financial assistance.

(b)(A) The program shall be administered by the department and the Governor as set forth in this section.

(B) Notwithstanding the duties and powers conferred respectively on the department and the Governor under sections 1 to 6 of this 2023 Act, the department and the Governor may consult each other with respect to any duty or power so conferred.

(c) It is the intent of the Legislative Assembly that program grants and loans be treated by the U.S. Secretary of Commerce as covered incentives for purposes of the federal semiconductor financial assistance program.

(3)(a) Program grant and loan proceeds may be used solely for:

(A) If a business’s application for federal semiconductor financial assistance is approved, activities undertaken in connection with the federal semiconductor financial assistance program; and

(B) Regardless of whether a business’s application for federal semiconductor financial assistance is approved:

(i) The development of a site for a semiconductor or other advanced manufacturing facility, including, but not limited to, the acquisition and aggregation of land;

(ii) Research and development with respect to semiconductors or advanced manufacturing; or

(iii) Partnering with institutions of higher education, including, but not limited to, historically Black colleges and universities, career technical training institutions, regional

collaborative groups, local workforce development boards as defined in ORS 660.300, programs funded through the federal Workforce Innovation and Opportunity Act (P.L. 113-128) and apprenticeship programs registered with the State Apprenticeship and Training Council for the purpose of workforce development and the creation of training, registered apprenticeship and internship opportunities, with respect to semiconductors or advanced manufacturing.

(b) Contractors and subcontractors on construction projects funded by program grant or loan proceeds must pay for such projects a rate of wage that meets or exceeds the greater of:

(A) The prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815; or

(B) The prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

(4)(a) A business that is a covered entity may apply to the department under section 2 of this 2023 Act for a program grant or loan.

(b)(A) Except as provided in subparagraph (B) of this paragraph, program grants and loans may not be awarded or made to any applicant in an amount greater than \$50 million.

(B) The Governor may approve a program grant or loan under section 3 of this 2023 Act in an amount greater than \$50 million only after having given the Legislative Assembly at least 30 calendar days' notice of the amount of the program grant or loan the Governor intends to approve.

(c)(A) Program loans:

(i) May be made for a term not to exceed 10 years, as negotiated by the business and, in consultation with the Governor, the department; and

(ii) Except as provided in section 5 (3) of this 2023 Act, shall be made at a zero rate of interest.

(B) All amounts received by the department in repayment of a program loan shall be transferred to the Oregon CHIPS Fund established under section 6 of this 2023 Act.

(d) Proceeds from a program grant or loan may be distributed in a single payment or in multiple, conditional payments, as specified in the program grant or loan agreement.

(e)(A) Except as provided in paragraph (f) of this subsection, for every \$1 million in program grant or loan proceeds received, the recipient business must, over the period of the grant or loan agreement, generate at least:

(i) If the term of the agreement is not more than five years, \$1.25 million in state and local revenue; or

(ii) If the term of the agreement is more than five years, \$1.5 million in state and local revenue.

(B) The department and the recipient business may specify in the program grant or loan agreement what the term "revenue" includes.

(f) In lieu of the requirement under paragraph (e) of this subsection, a recipient business may instead commit to the creation of new jobs in Oregon:

(A) At least 65 percent of which are permanent, full-time positions; and

(B) That pay on average at least the average median income for the region of this state in which the services will be performed.

(g)(A) In addition to program grants and loans, an application assistance grant, in an amount not to exceed \$50,000, may be awarded to a business whose application is approved under section 3 of this 2023 Act, for the costs of preparing and submitting the business's application for federal semiconductor financial assistance.

(B) Application assistance grants may be made from moneys in the fund or from any other source of funding available for such purpose to the department or the Governor.

SECTION 1a. (1) The Governor shall convene an advisory panel with the following membership:

- (a) The Governor or the Governor's designees;
 - (b) One or more representatives of the Oregon Business Development Department, appointed by the Governor; and
 - (c) No fewer than five individuals with expertise or experience in the semiconductor and advanced manufacturing industry, appointed by the Governor.
- (2) The advisory panel shall assist the Governor and the department in:
- (a) Establishing a statewide strategy to promote and expand Oregon's semiconductor and advanced manufacturing industry and the supply chains associated with the industry;
 - (b) Establishing application requirements for the grant and loan program developed by the department under section 1 of this 2023 Act so that program grants and loans will advance the statewide strategy established under paragraph (a) of this subsection; and
 - (c) Determining the criteria for reviewing and scoring applications and weighting the preferences for approving applications and setting program grant and loan amounts under section 3 (2) of this 2023 Act.
- (3) The advisory panel shall meet at least once before the department begins to develop the grant and loan program under section 1 (2) of this 2023 Act and once before the department begins to prescribe the application process for the grant and loan program under section 2 (1) of this 2023 Act.

SECTION 2. (1)(a) The Oregon Business Development Department shall prescribe an application process, including forms and deadlines, by which businesses may apply under this section for program grants and loans.

- (b) At a minimum, the application form must require the applicant business to:
 - (A) Establish its eligibility to be treated by the U.S. Secretary of Commerce as a covered entity;
 - (B) Include its statement of interest or draft application for federal semiconductor financial assistance;
 - (C) Explain how the applicant business plans to comply with all applicable federal employment, labor and environmental standards;
 - (D) Explain how the proposed activities of the applicant business will promote the expansion and long-term economic viability of the semiconductor industry in Oregon, including research and development, manufacturing and other critical links in the semiconductor supply chain;
 - (E) State the amount of program grant or loan proceeds sought under this section along with a detailed description of the proposed expenditure of the proceeds;
 - (F) If the application includes a request for an application assistance grant, state the amount of the application assistance grant sought and demonstrate the applicant business's need for the application assistance grant;
 - (G) Explain how the applicant business will meet the requirements under section 1 (4)(e) or (f) of this 2023 Act, setting forth at a minimum such information as:
 - (i) For state and local revenue, the kinds, amounts and timing of the revenue to be generated; or
 - (ii) For job creation, such information as the number, job descriptions, weekly hours, pay scale and locations of the proposed jobs;
 - (H) Include any other information that the department or the Governor considers necessary or important for review of the application; and
 - (I) Sign the application through an authorized director, officer, employee or agent under penalties for false swearing.
- (2)(a) Upon request, the department may consult with an applicant business about the business's application, before or after submission.

(b) An applicant business may amend and resubmit its application at any time within the application period.

(3) Trade secrets, as defined in ORS 646.461, that are submitted to the department as part of an application under this section shall be exempt from disclosure under ORS 192.311 to 192.478 until January 1, 2027.

SECTION 3. (1)(a) The Oregon Business Development Department and the Governor shall review all timely and complete applications for program grants and loans, with such distribution of duties and powers as the department and the Governor may arrange.

(b) Within 90 days following receipt of an application, the department and the Governor shall:

(A) Approve the application;

(B) Approve the application for a program grant or loan, or application assistance grant, in an amount other than the amount requested; or

(C) Reject the entire application or only the request for an application assistance grant.

(c) For a program grant or loan in an amount greater than \$50 million, the Governor shall provide notice to the Legislative Assembly in accordance with section 1 (4)(b)(B) of this 2023 Act.

(d) The decisions made with respect to an application are not subject to appeal.

(2) In approving applications and setting program grant and loan amounts, the department and the Governor shall give preference to:

(a) Projects that will promote the expansion and long-term economic viability of the semiconductor industry in Oregon, including research and development, manufacturing and other critical links in the semiconductor supply chain;

(b) Projects that will promote and extend Oregon's leadership in the field of technology;

(c) Projects that will attract manufacturing jobs to Oregon;

(d) Projects that will secure supply in Oregon for critical sectors of the state economy;

(e) Projects that reflect an applicant business's established relationship, or commitment to build a relationship, with organizations focused on developing a diverse workforce pipeline;

(f) Applicant businesses that have at least 10 full-time employees in Oregon;

(g) Applicant businesses that have formed partnerships for the purpose of workforce development or the creation of training, registered apprenticeship or internship opportunities;

(h)(A) Applicant businesses that commit to generating a greater amount of state and local revenue in accordance with section 1 (4)(e) of this 2023 Act; or

(B) Applicant businesses that commit to creating a higher percentage of new permanent full-time jobs in accordance with section 1 (4)(f) of this 2023 Act;

(i) Applications that propose projects described in 15 U.S.C. 4652(a)(2)(B)(i) that will incorporate significant participation by businesses owned by members of underrepresented communities and economically disadvantaged individuals; and

(j) Applications that, taken together, represent regional diversity in Oregon.

(3)(a) As soon as practicable after making decisions under subsection (1) of this section, the department shall:

(A) Notify the applicant business of the decision and the reasons for the decision; and

(B) For an approved application, offer to the applicant business a program grant or loan agreement and, if applicable, an application assistance grant.

(b) Upon entering into a program grant or loan agreement with the applicant business, the department shall distribute to the business from the Oregon CHIPS Fund established under section 6 of this 2023 Act the amount set forth in the agreement.

(4)(a) If a business that has entered into an agreement pursuant to this section changes ownership during the term of the agreement, the department and the Governor may allow the continued use of the program grant or loan proceeds provided the business enters into a new agreement with the department that commits the business to continuing the project as proposed in the application approved under this section.

(b) In the new agreement, the department may agree to minor changes in the terms of the original agreement that the department and the Governor considers reasonable in the circumstances and faithful to the purpose for which the business's application was approved.

SECTION 4. (1) At least once every six months following the date on which a business enters into a program grant or loan agreement with the Oregon Business Development Department under section 3 of this 2023 Act, for as long as the agreement is in effect, the business shall report to the department the following:

(a) The status of the business's application for federal semiconductor financial assistance;

(b) Progress on the project to construct, expand or modernize the facility for which the grant was awarded or the loan made, including, but not limited to, the acquisition or aggregation of land and the status of the permits required for the project;

(c)(A) State and local revenue generated in accordance with section 1 (4)(e) of this 2023 Act, setting forth at a minimum the kinds, amounts and timing of the revenue generated, as well as of any proposed revenue yet to be generated; or

(B) The number of jobs created in accordance with section 1 (4)(f) of this 2023 Act and the job descriptions, weekly hours, pay scale and locations of the jobs, as well as of jobs yet to be created;

(d) Any research and development work conducted with respect to semiconductors or advanced manufacturing;

(e) Any partnerships the business has engaged in with institutions of higher education or regional workforce programs for the purpose of workforce development and the creation of training, registered apprenticeship and internship opportunities;

(f) The status of any other consideration for which the business's application was given preference under section 3 (2) of this 2023 Act;

(g) The economic impact of the project on businesses in this state, including, but not limited to, the impact on supply chains;

(h) The economic and environmental impact of the project on communities in this state; and

(i) Any other information required by the department or the Governor.

(2) Not later than March 15 and September 15 of each year in which any program grant or loan agreement remains in effect, the department shall submit to the Oregon Business Development Commission established under ORS 285A.040 a report summarizing the semi-annual information received from businesses pursuant to subsection (1) of this section.

(3) Not later than September 15 of each year in which any program grant or loan agreement remains in effect, the department shall submit, in the manner required under ORS 192.245, a report summarizing the information received from businesses pursuant to subsection (1) of this section, to the interim committees of the Legislative Assembly related to economic development.

SECTION 5. (1)(a) A business that received a program grant or loan, including an application assistance grant, shall become liable for immediate repayment of the full amount of the grant or the outstanding principal amount of the loan, if:

(A) The business has not begun, on or before January 1, 2027, the process of applying for permits required for the project for which the grant was awarded or the loan made;

(B) The project changes substantially from the project for which the business's application was approved such that the project would not have been eligible for the program grant or loan;

(C) On or before the earlier of a date, if any, specified in the program grant or loan agreement or January 1, 2033:

(i) The business has not generated state and local revenue in accordance with section 1 (4)(e) of this 2023 Act; or

(i) The business has not created new permanent full-time jobs in accordance with section 1 (4)(f) of this 2023 Act;

(D) The business has not complied with all environmental standards applicable to the project under law or has not cured its noncompliance within a reasonable time, as determined by the Oregon Business Development Department or the Governor; or

(E) The business has not complied with all labor standards applicable to the project under law or the program grant or loan agreement or has not cured its noncompliance within a reasonable time, as determined by the department or the Governor.

(b) If a project is suspended for a reason beyond the control of the business, as determined by the department or the Governor, the amount to be repaid shall be in proportion to the percentage of the project that has not been completed at the time of suspension.

(2) Any and all amounts required to be repaid under this section shall be considered to be liquidated and delinquent, and the Oregon Business Development Department shall assign such amounts to the Department of Revenue for collection as provided in ORS 293.250.

(3) If the Oregon Business Development Department or the Governor discovers that a business willfully made a false statement or misrepresentation, or willfully failed to report a material fact, to obtain a program grant or loan, or an application assistance grant, under sections 1 to 6 of this 2023 Act, the Oregon Business Development Department may add to the amount the business is obligated to repay a penalty not to exceed 20 percent of the principal amount of the program grant or loan so obtained, plus any applicable interest and fees associated with the Department of Revenue's costs of collection.

(4) Subject to ORS 293.250, all amounts repaid to the Oregon Business Development Department or the Department of Revenue under this section, including award amounts, penalties, interest, fees and any other charges, shall be transferred to the Oregon CHIPS Fund established under section 6 of this 2023 Act.

SECTION 6. (1) The Oregon CHIPS Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon CHIPS Fund shall be credited to the fund.

(2) Moneys in the fund shall consist of:

(a) Amounts appropriated or otherwise transferred or credited to the fund by the Legislative Assembly;

(b) Earnings received on moneys in the fund; and

(c) Other moneys, or proceeds of property, from any public or private source that are transferred, donated or otherwise credited to the fund.

(3) Moneys in the Oregon CHIPS Fund are continuously appropriated to the Oregon Business Development Department for the following purposes:

(a) Paying the actual costs incurred by the department in developing and administering sections 1 to 6 of this 2023 Act; and

(b) Carrying out the provisions of sections 1 to 6 of this 2023 Act.

(4) Moneys in the Oregon CHIPS Fund on June 30, 2023, shall be retained in the fund, and used for the purposes set forth in subsection (3) of this section, until June 30, 2025.

(5) Any moneys remaining in the Oregon CHIPS Fund on June 30, 2025, shall be transferred to the General Fund.

SECTION 7. Sections 1 to 6 of this 2023 Act are repealed on January 2, 2033.

SECTION 8. In addition to and not in lieu of any other appropriation, there is appropriated to Oregon Business Development Department, for the biennium ending June 30, 2023, out of the General Fund, the following amounts, for the following purposes:

(1) \$190,000,000 for deposit in the Oregon CHIPS Fund established under section 6 of this 2023 Act, to be used for the purpose of carrying out the provisions of sections 1 to 6 and 10 of this 2023 Act; and

(2) \$10,000,000 for deposit in the Industrial Lands Loan Fund established under section 23 of this 2023 Act, to be used for any purpose for which moneys in the Industrial Lands Loan Fund may be used.

SECTION 8a. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$10,000,000, for deposit in the University Innovation Research Fund established under ORS 285A.230, to be used for any purpose related to economic development for which moneys in the University Innovation Research Fund may be used.

SECTION 8b. Notwithstanding any other law limiting expenditures, the amount of \$190,000,000 is established for the biennium ending June 30, 2023, as the maximum limit for payment of expenses by the Oregon Business Development Department from the Oregon CHIPS Fund established under section 6 of this 2023 Act for the purpose of carrying out the provisions of sections 1 to 6 and 10 of this 2023 Act.

SECTION 8c. Notwithstanding any other law limiting expenditures, the amount of \$10,000,000 is established for the biennium ending June 30, 2023, as the maximum limit for payment of expenses by the Oregon Business Development Department from the Industrial Lands Loan Fund established under section 23 of this 2023 Act for any purpose for which moneys in the Industrial Lands Loan Fund may be used.

SECTION 8d. Notwithstanding any other law limiting expenditures, the amount of \$10,000,000 is established for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses by the Oregon Business Development Department from the University Innovation Research Fund established under ORS 285A.230 for any purpose related to economic development for which moneys in the University Innovation Research Fund may be used.

SECTION 9. Sections 10 and 11 of this 2023 Act are added to and made a part of ORS 197.286 to 197.314.

SECTION 10. (1) On or before December 31, 2024, the Governor by executive order and subject to section 11 of this 2023 Act may bring within an existing urban growth boundary designated lands for the purposes of providing lands available for industrial uses to become part of the state's covered incentive as defined in section 1 of this 2023 Act that relate to the semiconductor industry, advanced manufacturing or the supply chain for semiconductors or advanced manufacturing.

(2) Lands designated by an executive order under this section must be within a site that consists of one or more tracts of land that are:

- (a) Contiguous to the city's existing urban growth boundary;
- (b) Entirely within three miles of the city's existing urban growth boundary; and
- (c) Not within areas designated as acknowledged urban reserves or rural reserves under ORS 195.144 (1), (2)(c) to (e) or (3).

(3) Before issuing an executive order under this section, the Governor shall:

(a) Conduct one public meeting, in coordination with the city nearest to the site and each county in which the site is located, to be held in that city for the purpose of discussing bringing within the urban growth boundary the lands or potential lands;

(b) Accept public comments for a period of no fewer than 20 days following the public meeting in paragraph (a) of this subsection; and

(c) Make a determination that existing lands within an urban growth boundary in this state would not meet the needs of the specific project.

(4) A determination made by the Governor under subsection (3)(c) of this section is final and not subject to appeal.

(5) The Governor may designate up to a maximum of eight sites, as follows:

- (a) Two sites that exceed 500 acres; and
- (b) Six sites that do not exceed 500 acres.

(6) Notwithstanding any other provision of this chapter or ORS chapter 195, 215, 227 or 268 or any statewide land use planning goal, lands designated in an executive order under this section are considered to be within the acknowledged urban growth boundary, as described in this chapter and ORS chapter 268, as of the date of the executive order.

(7)(a) Jurisdiction is conferred upon the Supreme Court to determine the legal effect of subsections (1) to (6) of this section or the legal effect of any order issued by the Governor under subsections (1) to (6) of this section.

(b) A person who is or will be adversely affected by subsections (1) to (6) of this section or by an order issued by the Governor under subsections (1) to (6) of this section may institute a proceeding for review of the order only by filing a petition with the Supreme Court within 60 days following:

(A) The effective date of this 2023 Act; or

(B) The date of issuance of an executive order that is being challenged by the petition.

(c) A copy of the petition must be served on the Attorney General and Governor.

(d) If the Supreme Court determines that the petition contains factual issues, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

(e) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(8) Notwithstanding any other provision of this chapter or ORS chapter 195, 215, 227 or 268 or any statewide land use planning goal, the Land Conservation and Development Commission shall treat as acknowledged, as described in this chapter, an amendment to a comprehensive plan or an adoption of or amendment to a land use regulation made by a local government with land use jurisdiction over the lands designated under subsection (1) of this section, if:

(a) The enactment or amendment is passed by an ordinance of the governing body of the county after a public hearing;

(b) The ordinance is to allow the use of the land for industrial uses under subsection (1) of this section;

(c) The ordinance is adopted no later than six months following the entry of the executive order designating the lands; and

(d) A copy of the ordinance is delivered to the Land Conservation and Development Commission within 14 days after passage.

SECTION 11. Land brought within an acknowledged urban growth boundary under section 10 of this 2023 Act is removed from the urban growth boundary upon an order of the Governor upon determining that development of the land will not be receiving federal semiconductor financial assistance, as defined in section 1 of this 2023 Act.

SECTION 12. Sections 10 and 11 of this 2023 Act are repealed on January 2, 2029.

SECTION 13. Sections 14 to 23 of this 2023 Act are added to and made a part of ORS chapter 285B.

SECTION 14. Definitions. As used in sections 14 to 23 of this 2023 Act:

(1) “Administrative costs” includes, but is not limited to, the direct and indirect costs incurred by the Oregon Business Development Department for:

(a) Investigating and processing applications submitted under section 19 of this 2023 Act;

(b) Negotiating agreements for the purposes of sections 14 to 23 of this 2023 Act;

(c) Monitoring the use of moneys provided to project sponsors under sections 14 to 23 of this 2023 Act;

(d) Closing a project; and

(e) Providing financial assistance to a project sponsor.

(2) “Brownfield” has the meaning given that term in ORS 285A.185.

(3)(a) “Development project” means a project for the acquisition, improvement, construction, demolition or redevelopment of publicly or privately owned utilities, buildings,

land, transportation facilities or other facilities that assist the economic and community development of a municipality.

(b) "Development project" includes planning project activities that are necessary or useful to a development project as determined by the department.

(4) "Eligible project" means a development project or a planning project.

(5) "Environmental action" has the meaning given that term in ORS 285A.188.

(6) "Industrial land" means land planned and zoned for industrial use that:

(a) Is suitable for new semiconductor industry uses, or the expansion of existing semiconductor industry uses, that can provide significant additional employment in Oregon;

(b) Has land characteristics that provide significant competitive advantages that are difficult or impossible to replicate; and

(c) Has access to transportation and freight infrastructure, including, but not limited to, rail, port, airport, multimodal freight or transshipment facilities and other major transportation facilities or routes.

(7) "Planning project" means:

(a) A project related to a potential development project for preliminary and final land use planning and engineering;

(b) A survey, land investigation or environmental action;

(c) A financial, technical or other feasibility report, study or plan; or

(d) Any activity that the department determines to be necessary or useful in planning for a potential development project.

(8) "Private owner" means a private business entity or property owner that has entered into an agreement with a local jurisdiction for the development of public infrastructure to serve a private site.

(9) "Project sponsor" means:

(a) A public entity or private owner of industrial land that is investing in the preparation of the land for a development project by a third party; or

(b) A public entity that has entered into a development or other agreement with the private owner of industrial land to prepare the land for a development project.

(10) "Public entity" means:

(a) A city or county in Oregon;

(b) A port formed under ORS 777.005 to 777.725;

(c) The Port of Portland created by ORS 778.010;

(d) The tribal council of a federally recognized Indian tribe in this state; or

(e) An airport district established under ORS chapter 838.

(11) "Semiconductor industry use" means the use of property to:

(a) Construct, expand, or modernize a facility for the fabrication, assembly, testing, advanced packaging or production of semiconductors, materials used to manufacture semiconductors or semiconductor manufacturing equipment; or

(b) Conduct research and development with respect to semiconductors, materials used to manufacture semiconductors or semiconductor manufacturing equipment.

SECTION 15. Financial assistance for development projects. (1)(a) The Oregon Business Development Department may provide financial assistance to a project sponsor, for allowable costs expended for an industrial land development project, from moneys in the Industrial Lands Loan Fund established under section 23 of this 2023 Act, in accordance with this section.

(b) The financial assistance to a project sponsor may be in the form of a repayable or forgivable loan or the purchase of bonds issued by the project sponsor.

(c) The department shall determine the amount of the financial assistance on a case-by-case basis.

(2) Financial assistance may be provided only with respect to a development project that is:

(a) Directly owned and operated by the project sponsor; or
(b) The subject of a management contract or an operating agreement to which the project sponsor is a party.

(3)(a) If a development project consists solely of the purchase or acquisition of land, financial assistance may be provided only if the land is:

(A) Identified in the applicable land use or capital plan as necessary for a potential industrial land development project; or

(B) Zoned solely for industrial use.

(b) Notwithstanding paragraph (a) of this subsection, financial assistance may not be denied under this subsection solely because the costs of the development project include the costs of acquiring off-site property for purposes that are directly related to the development project, including, but not limited to, wetland mitigation.

(4) Financial assistance provided to a project sponsor under this section may not be used for:

(a) The payment of:

(A) A penalty or fine; or

(B) Environmental remediation activities conducted at an industrial land site that is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), for which the project sponsor, or any party to the loan agreement entered into pursuant to section 20 of this 2023 Act to which the project sponsor is a party, is liable under 42 U.S.C. 9607;

(b) Retirement of debt;

(c) Projects that primarily focus on relocating business or economic activity from one part of the state to another, except in cases where the business or economic activity would otherwise be located outside Oregon; or

(d) Ongoing operations or maintenance expenses of any person.

(5) Contractors and subcontractors on development projects funded under sections 14 to 23 of this 2023 Act must pay for such projects a rate of wage that meets or exceeds the greater of:

(a) The prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815; or

(b) The prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

(6) The department shall adopt rules to administer and implement the provisions of this section.

SECTION 16. Forgivable loans for planning projects. (1)(a) The Oregon Business Development Department may make a forgivable loan to a project sponsor, for allowable costs related to a planning project, from moneys in the Industrial Lands Loan Fund established under section 23 of this 2023 Act, in accordance with this section.

(b) The department shall determine the amount of a forgivable loan on a case-by-case basis.

(2) A planning project eligible for a forgivable loan under this section may:

(a) Be a stand-alone project that is not intended to lead to a development project.

(b) Be a project that is intended to lead to a development project.

(c) Include planning or investigation for an environmental action on a brownfield.

SECTION 17. Other forms of financial assistance. The Oregon Business Development Department may directly or indirectly expend or loan moneys in the Industrial Lands Loan Fund established under section 23 of this 2023 Act or extend credit to:

(1) Provide to project sponsors of an industrial land eligible project any allowable form of financial assistance that the department considers appropriate, including the refinancing of temporary project financing.

(2) Purchase goods or services related to an eligible project on behalf of the project sponsor.

(3)(a) Finance guaranty agreements that are issued to guarantee any portion of the obligation of a project sponsor to finance an industrial land development project and that are not sold to the State of Oregon.

(b) Guaranty agreements under this subsection shall be payable solely from moneys in the fund and shall not constitute a debt or obligation of the State of Oregon.

(c) The department may, on behalf of the state, establish a special account in the fund and commit to deposit into the special account specified portions of current and future moneys credited to the fund.

(d) The commitments shall be made by rule of the department and shall constitute covenants of the state for the benefit of the owners of obligations guaranteed by the state pursuant to this section.

SECTION 18. Allowable costs. For purposes of sections 14 to 23 of this 2023 Act:

(1) The allowable costs of a development project include:

(a) Property acquisition and assembly costs associated with creating large development parcels, including any easement or right of way directly related to and necessary for a development project.

(b) Transportation improvements such as access roads, rail spurs and sidings, marine facility access, airport facilities necessary to provide industrial land access, intersections, turning lanes, signals, sidewalks, curbs, transit stops and storm drains.

(c) Infrastructure for providing broadband, electric power, natural gas, water and sewer service.

(d) Natural resource mitigation.

(e) Land grading activities.

(f) Environmental remediation and mitigation activities to address brownfield issues, in accordance with state and federally approved remediation plans.

(g) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop industrial land and financing costs, including capitalized interest.

(h) Direct project management costs.

(i) Costs of consultant services and expenses.

(j) Construction costs and expenses.

(k) Costs of acquiring off-site property for purposes directly related to a development project, including, but not limited to, wetland mitigation.

(L) Other costs that the Oregon Business Development Department determines to be necessary or useful for the project.

(2) The allowable costs of a planning project include:

(a) Necessary planning, engineering, legal and other professional services associated with:

(A) The preparation of applications for local, state and federal permits and related administrative costs.

(B) Carrying out the project and related administrative costs.

(b) Other costs that the department determines to be necessary or useful for the project.

SECTION 19. Application process for financial assistance. (1)(a) A project sponsor seeking financial assistance from the Industrial Lands Loan Fund must submit an application in the manner and form required by the Oregon Business Development Department.

(b) At a minimum, each application must include:

(A) The name and nature of the project sponsor;

(B) A description of the nature of the project;

(C) The provisions of sections 14 to 23 of this 2023 Act under which the project is eligible for financial assistance;

(D) The proposed activities to be funded;

- (E) A description and estimate of the allowable costs to be incurred for the project; and
- (F) All other information and documentation that the department requires.
- (2)(a) The department shall review all timely and complete applications and approve or reject each application in accordance with rules adopted by the department.
- (b) The department shall notify each applicant of its decision. The rejection of an application may not be appealed.

SECTION 20. Agreement for financial assistance. (1) Upon approval of an application submitted under section 19 of this 2023 Act, the Oregon Business Development Department, notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, and the project sponsor of the eligible project to which the application relates may enter into an agreement for financial assistance based on the application. The department shall determine the maximum amount of financial assistance based on a reasonable and prudent expectation of the ability of the project sponsor to repay the financial assistance.

- (2) An agreement entered into pursuant to this section must include:
 - (a) A provision that the obligation of the state under the agreement is contingent on the availability of moneys in the Industrial Lands Loan Fund for the financial assistance agreed upon.
 - (b) A provision that grants the department a lien on, or a security interest in, collateral to secure repayment of a loan made to, or bonds issued by, the project sponsor, in a form and amount determined by the department and specified in the agreement.
 - (c) Provisions that the department considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.
 - (d) Any other provision the department considers necessary or appropriate.
- (3) For an eligible project owned by a public entity, a loan agreement entered into pursuant to this section must be authorized by an ordinance, resolution or order adopted by the governing body of the project sponsor.
- (4) In making a determination to enter into a loan agreement with the project sponsor for an industrial land development project, the department shall consider the reasonableness of the project sponsor's estimated costs to prepare the land for industrial use, including, but not limited to, allowable costs for land preparation.
- (5) Financial assistance approved by the department for an eligible project shall be paid, in accordance with the terms of the agreement entered into pursuant to this section, from the Industrial Lands Loan Fund established under section 23 of this 2023 Act.
- (6) In assisting project sponsors with eligible projects, and to meet the goals of sections 14 to 23 of this 2023 Act, the department and other state agencies shall cooperate to the greatest extent possible with each other and federal agencies.

SECTION 21. Repayment. (1) A project sponsor may repay financial assistance provided for an eligible project under sections 14 to 23 of this 2023 Act from any source, including, but not limited to:

- (a) Revenues generated by the eligible project, including special assessment revenues.
- (b) Amounts withheld under section 22 of this 2023 Act.
- (c) The general fund of the project sponsor.
- (2) A plan for repayment to the Industrial Lands Loan Fund of financial assistance provided for an industrial land development project:
 - (a) Shall provide for repayment by the project sponsor of the financial assistance with interest to begin no later than seven years after the date of project completion or at such other time as the Oregon Business Development Department may provide.
 - (b) Shall provide for such evidence of debt assurance of, and security for, repayment by the project sponsor as is considered necessary by the department.
 - (c) Shall set forth a schedule of payments and the period of the loan, not to exceed the useful life of the contracted project or 30 years from the date of the project completion, whichever is less, and the manner of determining when loan payments are delinquent.

(d) May provide for a reasonable extension of the time for making any repayment as set forth under paragraph (c) of this subsection in emergency or hardship circumstances, if approved by the department.

(e) Shall include repayment of interest that accrues during any period of delay in repayment authorized under paragraph (a) of this subsection. The repayment of accrued interest may be in varying amounts.

(f) Shall allow for other forms of payment than principal and interest payments on loans, in accordance with rules adopted by the department.

SECTION 22. Breach; default. (1) If a project sponsor fails to comply with sections 14 to 23 of this 2023 Act or an agreement entered into under section 20 of this 2023 Act, the Oregon Business Development Department may seek appropriate legal remedies to secure any repayment of obligations due from the project sponsor to the Industrial Lands Loan Fund.

(2)(a) If a project sponsor defaults on payments of obligations to the fund under sections 14 to 23 of this 2023 Act, the State of Oregon may withhold any amounts otherwise due to the project sponsor to offset against the obligations. The department may waive this right to withhold.

(b) Moneys withheld under paragraph (a) of this subsection shall be deposited in the fund and shall be used to repay any account in the fund from which moneys were expended to pay obligations upon which the project sponsor defaulted.

SECTION 23. Industrial Lands Loan Fund. (1)(a) The Industrial Lands Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Industrial Lands Loan Fund shall be credited to the fund.

(b) Moneys in the fund are continuously appropriated to the Oregon Business Development Department for the purposes set forth in sections 14 to 23 of this 2023 Act. In addition, the department may finance administrative costs incurred by the department under sections 14 to 23 of this 2023 Act.

(c) The department may establish other accounts within the fund for the payment of project costs, reserves, debt service payments, credit enhancement, administrative costs and operation expenses or any other purpose necessary to carry out sections 14 to 23 of this 2023 Act.

(2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the earnings from the investments shall be credited to the account in the fund designated by the department.

(3) The fund shall consist of moneys credited to the fund, including:

(a) Moneys appropriated to the fund by the Legislative Assembly;

(b) Moneys transferred to the fund by the department;

(c) Earnings on moneys in the fund;

(d) Repayment of financial assistance, including interest, under sections 21 and 22 of this 2023 Act;

(e) Moneys received from the federal, state or local governments; and

(f) Moneys, or the proceeds of assets, from any other public or private source, including, but not limited to, grants and gifts.

(4)(a) The department may commit moneys in the fund, or reserve future income of the fund, for expenditure in future years in accordance with this section.

(b) The department may commit moneys or reserve future income under this subsection only after:

(A) Allowing for contingencies; and

(B) Determining that there will be sufficient unobligated net moneys in the fund to make the future payments, consistent with the requirements of this section.

SECTION 24. The section captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

SECTION 25. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate March 29, 2023

.....
Lori L. Bocker, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House April 6, 2023

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Shemia Fagan, Secretary of State

REQUEST FOR COUNCIL ACTION



Date Action Requested: (August 21, 2023)

Order ☐ Ordinance ☐ Resolution ☐ Motion ☐ Information ☐	
No. 2022-3814	
Subject: Ratify the Mayor's selection for the Rate Review Committee vacancy.	Staff: Kady Strode Department: Finance File No.
Business Session	Order On Agenda: Council Appointments
Hearing Type:	

Recommendation: To consent to the Mayor's appointment of Ned Knight, Derek Duff, Derrick Wharff, and one student appointment, Anna Arsenault to the Rate Review Committee to fill vacant positions for a term beginning August 21, 2023.

The new committee members will take the place of Brenda Morris and Wesley Clark, both who's terms ended, as well as two vacant positions which were never previously filled.

Executive Summary:

Ned Knight resides in District 6 within the city limits of Newberg. He has previously served on Rate Review Committee.

Derek Duff resides in District 4 within the city limits of Newberg. He attended George Fox University for his master's degree and is interested in participating in a city committee.

Derrick Wharff resides in District 6 within the city limits of Newberg. He currently works for Yamhill County and is interested in learning more about the City's utilities.

Anna Arsenault resides in District 5 within the city limits of Newberg. She will be filling our student representative position.

Ned J. Knight
2307 E Kennedy Drive
Newberg, OR 97132

OBJECTIVES	Teaching courses in environmental science, ecology, introductory biology, zoology, fish biology, or climate change
EDUCATION	Ph.D in Ecology, December 1985 - University of California at Davis. Dissertation: "Microhabitats and temperature requirements of hardhead (<u>Mylopharodon conocephalus</u>) and Sacramento squawfish (<u>Ptychocheilus grandis</u>), with notes on some other native California stream fishes." M.S. in Fisheries, June 1980 - Oregon State University, Corvallis. Thesis: "Factors affecting the smolt yield of coho salmon (<u>Oncorhynchus kisutch</u>) in three Oregon streams." B.S. in Fisheries, B.S. in Zoology, June 1977 - Oregon State University, Corvallis.
EXPERIENCE	June 1994 - present. Instructor, Linfield College Adult Degree Program. Teaching courses in Human Ecosystems, Environmental Science, General Ecology, Environmental Issues and the Physical Sciences, Water Resources, Global Issues, and Climate Change, at the McMinnville campus during the school year, plus online formats August 1992 – May 2021. Adjunct Faculty, Linfield College, McMinnville. Instructor of Environmental Science courses to approximately 100 students each school year, plus occasional Introductory Biology sections August 1986 – May 2021. Biology Department Associate, Reed College, Portland. Laboratory instructor of introductory biology (botany, genetics, plant physiology, animal physiology, developmental biology, population biology); providing continuity of instruction for 80 students under six professors rotating through a two-course sequence. January 1986 - March 1988. Instructor, Mt. Hood Community College, Gresham. Taught sophomore-level statistics courses. January 1978 - December 1981. Teaching Assistant, Oregon State University and University of California at Davis. Laboratory instructor for several courses, including commercial fisheries, invertebrate fisheries, fishery biology, and fish biology.

OTHER EXPERIENCE.	September 2019 – June 2022. Member of Newberg Rate Review Committee April 1993 – October 2018. Part-time retail clerk, Walker Road Fred Meyer Garden Center, Beaverton, OR. January 1981 - June 1984. Research Assistant, University of California at Davis. Field and laboratory research on native California stream fishes. June 1978 - December 1978. Research Assistant, Oregon State University. Extensive literature review on natural variability of salmonid populations in streams. June 1977 - September 1977. Research Assistant, Oregon State University. Field work on the effects of log jams on fish populations and habitats. July 1976 - September 1976. Summer employment, Oregon Department of Fish and Wildlife, Florence. Survey of ocean sport salmon fishery, and other tasks.
AWARDS	May 1996 - Reed College, Portland. 10-year service recognition. May 2001 - Reed College, Portland. 15-year service recognition May 2006 - Reed College, Portland. 20-year service recognition May 2011 - Reed College, Portland. 25-year service recognition July 1996, July 2008 - Reed College, Portland. Meritorious salary increase. September 1997 - Linfield College Adult Degree Program. Excellence in Teaching recognition.
EARLY BACKGROUND	Grew up in Merrick, New York, about 40 miles east of New York City. Graduated from John F. Kennedy High School (top 1%) - June 1972.
INTERESTS	hiking, gardening, French horn playing, reading.
CONTACT INFO	nknight@linfield.edu or njknigh54@gmail.com 503-708-5344

Derek Duff

324 W Hazelnut Dr, Newberg, OR 97132 | (503) 348-4156

DerekDuff@gmail.com

Mar 22 — Present: Sr. Manager, Commercial Analytics, The Greenbrier Companies — Develop strategy & processes aligned with sales data, process & execution. Responsible for developing data strategy & analytics to support the Commercial team including ETL processes and dashboard development.

- Streamlined commercial data sources in centralized data warehouse reducing execution by 8 hours per week
- Updated vital car pricing tool to data warehouse data source ensuring the most up to date source of truth

Apr 21 — Feb 22: Manager, Commercial Operations, Biotronik, Inc. — Developed strategy & processes aligned with sales execution. Supported executive management team with detailed and sensitive analytical requests. Acted as chief of staff for VP, Commercial Excellence & Corporate Accounts.

- Developed end to end forecasting process ensuring timely responses & reduced time to execute by 20%
- Created territory alignment process to improve alignment for span of control & share of market analysis
- Conducted compensation work team to build compensation plans to meet the needs of the staff & business

Mar 14 — Apr 21: Manager, Sales Reporting & Analytics, Biotronik, Inc. — Managed & trained staff of 4. Developed reporting strategy & ensure on time, on quality delivery. Managed customer reporting requirements. Ensured accurate & hygienic master data. Delivered all sales reports & dashboards for sales & sales operations. Acted as key Subject Matter Expert for all aspects of data & reports for Sales & Shared Service organizations.

- Increased reporting output by over 300% by streamlining report development & automating distribution
- Generated \$100k in savings by automating processes and reporting standards to Medicare requirements
- Decreased monthly commission processing by 80 hours by implementing process & reporting automations
- Generated \$250k in savings in inventory carrying cost creating product availability forecasting matrix
- Enabled Quarterly Business Review process by designing reports & metrics for all levels of the sales team

Mar 13 — Feb 14: Senior Sales Analyst, Biotronik, Inc. — Maintained sales plan & forecasting processes & outputs. Designed & implemented standard reports to sales management. Performed ad hoc reporting requests.

- Reduced sales plan development time 80% by creating a user-friendly template for sales management
- Recognized globally by designing & collaborating with Marketing to design product launch dashboard

Jan 12 — Feb 13: Business Systems Analyst, Vestas — Responsible for technical education responsibilities for the entire North American market. Responsible for delivering major IT projects. Developed delivery/communication strategy & ensure on time, on budget, on quality.

- Delivered a comprehensive, role specific training program to field personnel on time using PMI principles
- Delivered service site quality audit database IT project on time & under budget using PMI principles

Jun 08 — Dec 11: Senior Technical Education Instructor, Vestas — Responsible for supporting SAP global implementation. Responsible for learning record and competency reporting using SAP.

- On-boarded over 300 employees in 2010 by managing a New Employee Orientation program
- Delivered training to 250 participants for SAP releases in 3 countries using in person & web-based training
- Designed processes for 2,500 service employees to track individual competency using HCM module in SAP

May 07 — May 08: Sales Operations Professional, Vestas — Responsible for inside sales support to the entire sales organization. Designated superuser for SAP rollout. Technical expert & support for the sales team.

- Achieved closing \$1B in sales in a single week by fast tracking internal sales milestones & sales gates

MA in Business Administration, George Fox University, 2012

BS Marketing | BS Advertising Management, Portland State University, 2007



Derrick Wharff

Newberg, Oregon, United States



wharffd@yahoo.com



503-706-3276

Summary

Experienced Assessor and Tax Collector with a demonstrated history of working in the real estate and finance industries. Skilled in Oregon Assessment and Tax, Portfolio Management, Risk Management, Commercial Lending, Banking, and Strategic Planning.

Experience



Yamhill County Assessor & Tax Collector

Yamhill County

Jun 2012 - Present (11 years 2 months)

Yamhill County Assessor



Chief Appraiser

Yamhill County Assessment and Taxation

Jun 2012 - May 2016 (4 years)

Under limited supervision, plans, coordinates, and manages the operations of the Commercial/Industrial and Residential Appraisal divisions of the Yamhill County Assessor's Office; provides technical expertise in relation to appraisal activities; and supervises assigned personnel. Oversees valuation of all property types within the county.



SVP, Loan Operations

Columbia River Bank

Oct 2007 - Jul 2009 (1 year 10 months)



VP, Commercial Loan Processing

West Coast Bank

May 1998 - Oct 2007 (9 years 6 months)

Education



Appraisal Institute

Oregon Certified General Appraiser — C001091

2008 - Current



Western Oregon University

BA, Business Management

1993 - 1998



Willamina Union High

1990 - 1993

School District 40 J

Skills

Oregon Ad Valorem Tax and Appraisal • local budget law • Commercial Lending • Risk Management • Loans • Banking • Credit • Finance • Mortgage Lending • Strategic Planning • Valuation

3509 Madrona Dr.
Newberg, OR. 97132
(503) 800-9993
ANNAJO256007@GMAIL.COM

ANNA ARSENAULT

SKILLS

Strong organizational abilities with proven success managing multiple academic projects and volunteering events. Hardworking and committed to customer service.

Capable communicator skilled in initiating and directing team to achieve goals.

EXPERIENCE

Papa Murphy's — Crew Member

JUNE 2023 - PRESENT

- Take customer orders both in person and on phone
- Work with team to make pizzas according to customers orders
- Quickly switch between tasks to ensure timeliness, cleanliness, and overall customer satisfaction

Fred Meyer, Newberg OR. — E Commerce Clerk

JUNE 2022 - AUGUST 2022

- Filled grocery orders for customers in an efficient and timely manner
- Ensured quality of products

Philipson Family, Newberg OR. — Nanny

AUGUST 2021 - MAY 2022

- Supervise three children ages 6-9
- Assist in household chores
- Assist with educational activities and crafts

Newberg Dundee Food Buying Club, Newberg OR. — Order Preparation Assistant

MAY 2021 - AUGUST 2021

- Weighed and sorted produce inventory for customers
- Ensured quality of produce
- Interacted with customers to fulfill orders

Arboris Homeschool Community, Newberg OR.— Nursery Childcare Worker

SEPTEMBER 2019 - DECEMBER 2019

- Supervised and monitored the safety of children
- Changed the diapers of infants and toddlers
- Assisted with educational activities and crafts

EDUCATION

Homeschool, Newberg OR. — Senior

SEPTEMBER 2011 - PRESENT, NEWBERG OR.

Study of the liberal arts and natural sciences, including a rich and ordered study of history, literature, and language as well as music and the fine arts.

EXTRACURRICULAR ACTIVITIES

- ACE Mentorship
A mentorship opportunity in which students are guided by professionals in the ACE fields (architecture, construction, and engineering) as they create a building or site design project together. The ACE mentorship not only provides students with an excellent opportunity to gain experience in the ACE fields but also to learn the importance of communication when working on a team, whether it be in sharing ideas and troubleshooting; or in encouraging one another and providing constructive criticism.
- VIOLIN
Nine years of private lessons.
- Kenpo Karate
I currently have my brown belt and am working towards black!

Signed May 2.12

**AN ARPA PROJECT MEMORANDUM OF UNDERSTANDING
AND AGREEMENT BETWEEN CITY OF NEWBERG & COMMUNITY WELLNESS
COLLECTIVE FOR HARVEST HOUSE**

This Memorandum of Understanding (this "MOU") dated April 1, 2022, is between the City of Newberg, an Oregon municipal corporation (the "City") and Community Wellness Collective, a 501(c) 3 corporation (the "Subrecipient").

WHEREAS, on March 11, 2021, President Joseph R. Biden signed into law the American Rescue Plan Act of 2021 ("ARPA"); and

WHEREAS, on May 10, 2021, the United States Department of the Treasury (the "Treasury") published guidance regarding the allowable usage of the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") to be disseminated to local governments in accordance with ARPA; and

WHEREAS, Section 603(b) of the Social Security Act (the "Act"), as added by Section 9901 of ARPA, authorizes the Treasury to allocate and make payments to certain cities and other local governments; and

WHEREAS the City signed and certified a separate agreement with the Treasury, as a condition of receiving SLFRF dollars from the Treasury, that provides for the payment of approximately \$5,300,000 to the City (the "Funding"); and

WHEREAS, Subrecipient submitted a written proposal to the City to use \$350,000 from the Funding (the "Award") to perform the Project described in **Exhibit A** (the "Project"); and

WHEREAS, the City and Subrecipient desire to enter into this MOU to establish the responsibilities of the City and Subrecipient.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

A. Subrecipient Performance. Subrecipient understands and agrees that the funds disbursed under this Award must be used in compliance with Section 603(c) of the Act and the Treasury's regulations implementing that section and guidance. Subrecipient certifies that it will carry out the activities listed in Section 603(c) of the Act and also agrees to use the Award as specified in its ARPA budget committee proposal, which is attached as **Exhibit B** to this MOU.

B. Performance Capabilities. Subrecipient will determine prior to using any portion of the Award that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project. Subrecipient will finance the Project consistent with the financial breakdown attached as **Exhibit C**.

C. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2024. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

D. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to submit progress reports quarterly to the City. These reports will cover the financial and operational progress of the Project and must be sent to the City on the following dates:

January 1, April 1, July 1, and October 1.

This reporting will continue until both parties agree in writing that the project has been completed, and all deliverables have been submitted.

E. Maintenance of Records. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with Section 603(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to the Treasury, whichever is later.

F. Access to Records. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have a right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.

G. Evolution of Guidance. The City may request additional information from Subrecipient, as needed, to meet any additional guidelines regarding the use of the Funding, which may be established by the Treasury during the scope of this MOU.

H. Compliance with Applicable Law and Regulations.

i. Subrecipient agrees to comply with the requirements of Section 603 of the Act, regulations adopted by the Treasury pursuant to Section 603(f) of the Act, and guidance issued by the Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall ensure such compliance by other parties in any agreements it enters into with other parties relating to this Award.

ii. Subrecipients of federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of federal funds. Those requirements include ensuring that entities receiving federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.); Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.); Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

iii. Subrecipient will repay to City amounts of the Award spent in violation of any applicable laws or regulations as determined by the Treasury.

I. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal ARPA funds awarded to the City of Newberg by the U.S. Department of the Treasury."

J. Disclaimer and Indemnity. The City expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Award or any other agreement, or subcontractor operating under this Award. Subrecipient agrees to defend, indemnify, and hold the City, its officers, officials, employees, agents, and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses, including without limitation attorney fees, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of Subrecipient, or its officers, directors, employees, or agents relating to

Subrecipient's performance or failure to perform in accordance with this MOU. This section shall survive the expiration or termination of this MOU.

K. Party Relationship. The acceptance of this Award by Subrecipient does not in any way establish an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the City and Subrecipient.

L. Equipment and Real Property. Subrecipient understands and agrees that any purchase of equipment or real property must be consistent with the Uniform Guidance at 2 CFR. Part 200, Subpart D. Equipment and real property acquired under this Agreement must be used for the original authorized purpose. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

M. Participation. Subrecipient shall cooperate in any enforcement or compliance review activities by the City or the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.

N. Deliverables. Subrecipient agrees to submit the deliverables on the listed delivery schedule attached as **Exhibit D** to demonstrate that the Project is progressing or has been completed in good faith.

O. Return of Award. Subrecipient will repay to the City all funds awarded if the Project is not complete by **December 31, 2024**, as the Secretary of the Treasury has the power to require repayment under the terms of Section 603(e) of the Act.

P. Non-Waiver. No failure on the part of the City to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the City at law or in equity.

Q. Binding Effect. This MOU shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

R. No Assignment. Subrecipient shall not assign or transfer any of its interests in or obligations under this MOU without the prior written consent of the City.

S. No False Statements or Claims. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, disbarment from participating in federal awards, and/or any other remedy available by law.

T. Notices. Any notices desired or required to be given hereunder shall be in writing, and shall be deemed received three days after deposit with the US Postal Service (postage fully prepaid, certified mail, return receipt requested), and addressed to the party to which it is intended at its last known address, or to such person or address as either party shall designate to the other from time to time in writing forwarded in like manner. Notice may also be provided by electronic mail.

CITY

City of Newberg
414 E. First Street
Newberg, Oregon 97132
Attn: Will Worthey CM P/T
Email: will.worthey@newbergoregon.gov

SUBRECIPIENT

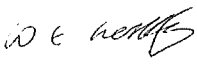
Community Wellness Collective
23485 NE Dillon Rd
Newberg OR 97132
Attn: Kristen Stoller

U. Counterparts. This MOU may be executed in one or more counterparts, any of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

V. Signature Authority. Each party signing below represents and warrants to the other party, that they have the full power and authority to execute this MOU on behalf of the party for whom they sign.

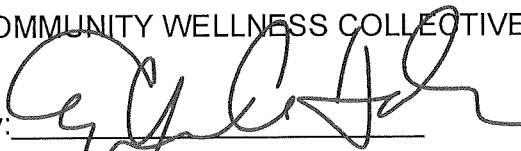
CITY

CITY OF NEWBERG

By: 
Name: Will Worthey
Title: City Manager, Pro Tem

SUBRECIPIENT

COMMUNITY WELLNESS COLLECTIVE

By: 
Name: Elise Yarnell
Title: President

Date: 4/1/22

EXHIBIT A

PROJECT DESCRIPTION

Subrecipient will operate the Project and be responsible for the following operational elements:

Project Budget: \$350,000

Item	Cost	EC Assigned	Comments
Continuation of current staffing and expansion to case management services	\$250,000	1.1, 1.2, 1.10, 1.11, 2.10, 3.10, 3.11, 3.12	Current funding ends June 30, 2022
ADU: Expansion to support single moms with kids and domestic violence victims	\$75,000	2.10, 3.10, 3.11	Partnership with local foundation
Shelter car	\$10,000	2.10, 3.13	Transportation to job interviews, medical appointments
Training and Education:	\$5,000	1.10, 2.10, 3.16	Peer support certification for staff and de-escalation training
Prescription fund	\$10,000	2.10, 3.13	Bridging guests until OHP approval letter

EXHIBIT B

ARPA BUDGET COMMITTEE PROPOSAL

PROJECT:

NEWBERG HARVEST HOUSE: STABILIZING SHELTER FOR THE HOUSELESS

JUSTIFICATION:

COVID-19 has placed significant strain on our community's already spread thin resources for housing support. This has led to even more displaced Newberg community members including single moms, families, and medically fragile individuals.

Newberg Emergency Shelter formally joined Community Wellness Collective as a housing support subcommittee in January 2021 in effort to provide additional financial and resourcing support for our community members struggling with housing placement. In January 2021, YCAP, Community Wellness Collective and the Newberg Emergency Shelter created a formal partnership and contract to repurpose YCAP Harvest House at 615 N College St, to act as the city's first low-barrier shelter, welcome to any community member.

At opening, Newberg Emergency Shelter had been 100% volunteer run, aiming to be open any night under 32 degrees from 8pm-8am. Since then, in partnership with YCAP funding, Newberg Harvest House has 5 part-time staff. Because of this, the shelter has been able to remain open Thursday-Tuesday nights, 8pm-8am, and additional days/nights during inclement weather, while maintaining COVID-19 safety precautions. **Most nights, the shelter is at or near capacity of 22 people staying in the home overnight.** Five part-time employees have brought stability to the shifts, requiring less volunteers to run the shelter. We have also been able to expand to support medical and mental health visits onsite at the shelter 1 night per week in partnership with Providence Medical Group. This has allowed our shelter guests to feel cared for and committed to in an entirely new way and has fostered personal goals in guests that may not have previously been had.

Newberg Harvest House currently supports:

- Dinner and breakfast
- Showers
- Laundry
- Job search
- Medical, mental health, substance use disorder visits
- COVID-19 testing and vaccination
- OHP application submission
- Motel vouchers for medically fragile and COVID-19 cases

Goals for 2022 are:

- Provide 7-day week nightly stays
- Open during the day during inclement weather
- Continue to provide services onsite
- Staff and volunteer de-escalation and trauma informed training
- Expand peer support groups
- Enhanced support in job search
- Transportation to appointments
- Case management of long-term hotel guests
- Submission to coordinated entry for long-term housing placement
- ADU extension to property for single moms with kids and domestic violence victims (in partnership with local foundation)

Supporting of this project would allow the shelter to continue current programming, staffing, and expansion of above goals through July 2023.

Project Budget: \$350,000

Item	Cost	EC Assigned	Comments
Continuation of current staffing and expansion to case management services	\$250,000	1.1, 1.2, 1.10, 1.11, 2.10, 3.10, 3.11, 3.12	Current funding ends June 30, 2022
ADU: Expansion to support single moms with kids and domestic violence victims	\$75,000	2.10, 3.10, 3.11	Partnership with local foundation
Shelter car	\$10,000	2.10, 3.13	Transportation to job interviews, medical appointments
Training and Education:	\$5,000	1.10, 2.10, 3.16	Peer support certification for staff and de-escalation training
Prescription fund	\$10,000	2.10, 3.13	Bridging guests until OHP approval letter

PROJECT SUSTAINABILITY:

Many organizations in our county and state support long term housing placement and options, but very few resources exist to support temporary relief to individuals and families in need of immediate shelter. Newberg Harvest House is currently the only low-barrier shelter, aiming to be open to all community members 365 days a year, with onsite medical, mental health, and social support present.

In the short time of being open, just over a year, we have gained relationships with community members that have a variety of life situations, but all commonality in simply needing love, compassion, and safety to rest with zero judgment of their situation. Providing shelter and resourcing allows a person the dignity to have space to create goals for their medical, mental, financial, and spiritual health.

As our community comes out of the COVID-19 pandemic, immediate shelter options will be crucial for our families, youth, and individual community members to find relief and rebuild pieces of their lives that have been displaced. Community Wellness Collective and Newberg Harvest House is committed to our community's houseless population and hopes to provide respite and hope to those community members in need.

ARPA EXPENDITURE CATEGORIES (EC):

1.1, 1.2, 1.10, 1.11, 2.10, 3.10, 3.11, 3.12, 3.13, 3.16 (see description designation in budget above)

EXHIBIT C

FINANCIAL BREAKDOWN

The total payment sum of \$350,000 will be issued directly to the Subrecipient. The disbursement of these funds will follow the listed schedule below in line with the listed deliverables:

Item	Total and method
Continuation of current staffing and expansion to case management services	\$250,000: The city will disburse a quarterly amount equal to a payroll report that will be delivered quarterly. The city will start with an immediate disbursement for January, February, and March 2022 as soon as the first report is received. The city will continue to disburse funds until the total of \$250,000 is met. See deliverables appendix D.
ADU: Expansion to support single moms with kids and domestic violence victims	\$75,000: As soon as planning approval is received and the required permits have been issued the city will disburse the entire amount in one lump sum. See deliverables appendix D.
Shelter car	\$10,000: The city is prepared to disburse these funds immediately. See deliverables appendix D.
Training and Education:	\$5,000: The city is prepared to disburse these funds immediately. See deliverables appendix D.
Prescription fund	\$10,000: The city is prepared to disburse these funds immediately. See deliverables appendix D.

EXHIBIT D

SCHEDULE OF DELIVERABLES

Item	Total and method
Continuation of current staffing and expansion to case management services	\$250,000: The city must receive a payroll report quarterly and will disburse funds with each report. The due dates for these deliverables will be: January 1, April 1, July 1, and October 1.
ADU: Expansion to support single moms with kids and domestic violence victims	\$75,000: The city required evidence of planning approval and the relevant permits. After construction the city requires an opportunity to visit the site to see the improvements to document them for the federal government.
Shelter car	\$10,000: The city requires proof of purchase for the vehicle listing expenses equal to or greater than \$10,000. The city would also like a picture of the vehicle to show the federal government.
Training and Education:	\$5,000: The city requires a copy of the curriculum and cost estimate breakdown as a onetime deliverable. The due date for this deliverable will be July 1 2022.
Prescription fund	\$10,000: The city requires a quarterly report listing expenditures. The due dates for these deliverables will be: January 1, April 1, July 1, and October 1.

MEMORANDUM

TO: Newberg Planning Commission
FROM: Doug Rux, Community Development Director
SUBJECT: Anticipated Schedule of Planning Commission Activities
DATE: August 10, 2023

To assist the Planning Commission in gauging activities for FY 23/24 below is a preliminary schedule of activities.

August 10, 2023

- YCAP Shelter CIP Modification & Parking Determination – Quasi-Judicial Hearing (continued hearing)
- Vacation Rental 3238 E Province Court – Quasi-Judicial Hearing
- Vacation Rental 812 E Third Street – Quasi-Judicial Hearing
- Resolution Moratorium Vacation Rentals
- Vacation Rental Research

September 14, 2023

- Vacation Rental 1208 E Tenth Street – Quasi-Judicial Hearing
- Vacation Rental Research

October 12, 2023

- Vacation Rental 509 N Grant St – Quasi-Judicial Hearing
- Vacation Rental 1205 E Ginger Root Ct – Quasi-Judicial Hearing
- TBD

November 9, 2023

- TBD

December 14, 2023

- TBD

January 11, 2024

- Development Code Amendment – Institutional Zone & Overlay Regulations – Legislative Hearing (Tentative)

February 8, 2024

- TBD

March 14, 2024

- West End Mill District Comprehensive Plan Text Amendment, Comprehensive Map Amendment/Zoning – Quasi Judicial Hearing (Tentative)

April 11, 2024

- TBD

May 9, 2024

- TBD

June 13, 2024

- TBD

There are additional activities the Community Development Department may bring forward to the Planning Commission for consideration for land use cases. Staff is also looking at various updates and cleanup actions to the Development Code such as:

1. Appendix A revisions roadway cross-sections
2. Tentative – Military Banner Sign Regulations – Legislative
3. Annexation criteria
4. Stream Corridor Adjustment process
5. Urban Forestry program
6. Fences in Industrial zones
7. C-3 zone – reduce front yard landscaping from 10 feet to 5 feet
8. Industrial outdoor storage
9. Downtown sign point system
10. Roof top mechanical unit screening
11. Historic review process
12. Zoning Use Table
13. Undergrounding utilities
14. Driveway width
15. Home occupations
16. 15.405.030B – “The creation” ~~development~~ of lots under 15,000 sf.....
17. 15.302.010 – add R-4 to the list
18. Replace parking diagrams in 15.440.070 for readability
19. Replace airport overlay diagrams in back of Dev. Code for readability
20. Temporary Merchant standards
21. Food Carts
22. ADUs in industrial zones