

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF GRANTS
PASS; CITY OF HAPPY VALLEY;
CITY OF HILLSBORO; CITY OF
KEIZER; CITY OF MEDFORD; CITY
OF OREGON CITY; CITY OF
SHERWOOD; CITY OF
SPRINGFIELD; CITY OF
TROUTDALE; CITY OF TUALATIN;
CITY OF WOOD VILLAGE; and
MARION COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

PERMANENT ADMINISTRATIVE
ORDER #LCDD 3-2022

PETITIONERS' MOTION-OTHER
MOTION TO STAY ENFORCEMENT PENDING
JUDICIAL REVIEW

EMERGENCY MOTION UNDER ORAP 7.35

Judicial Review of Land Conservation and
Development Commission's Climate-Friendly and
Equitable Communities Rules

Counsel listed on following page

David O. Bechtold, OSB No. 133019
Greg A. Hibbard, OSB No. 183602
NORTHWEST RESOURCE LAW PLLC
1500 SW First Avenue, Suite 985
Portland, OR 97201
Telephone: 503.664.3582
dbechtold@nwresource.com
ghibbard@nwresource.com

Attorneys for Petitioners

Ellen F. Rosenblum, OSB No. 753239
Attorney General
Denise Fjordbeck, OSB No. 822578
Attorney-in-Charge, Civil/Administrative Appeals
Robert M. Wilsey, OSB No. 085116
Assistant Attorney General
Oregon Department of Justice
400 Justice Building
1162 Court Street NE
Salem, OR 97301
Telephone: 503.378.6002
ellen.f.rosenblum@doj.state.or.us
denise.fjordbeck@doj.state.or.us
robert.wilsey@doj.state.or.us

Attorneys for Respondents

NORTHWEST RESOURCE LAW PLLC

1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

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ORAP 7.35 STATEMENT

This motion is brought on an emergency basis, and its resolution is necessary in less than 21 days to avoid irreparable harm to local communities across Oregon. The Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”)¹ represent the most ambitious and impactful rulemaking undertaken by the Land Conservation and Development Commission (“Commission”) in many decades. The CFEC Rules are designed to force local governments to immediately change their development strategies, and, to this end, mandate aggressive timelines for compliance. Given the unique dynamics of many Oregon communities, the heavy-handed CFEC Rules cannot achieve the noble outcomes that the Commission has envisioned. Instead, the Rules handcuff land use planners to ill-advised development strategies and force them to abandon community visions that have been pursued for years.

Petitioners’ counsel has conferred with Respondents’ counsel on this motion. Respondents oppose the motion and intend to file a response.

¹ A copy of the CFEC Rules as published in the Permanent Administrative Order is attached to the Declaration of David O. Bechtold as Exhibit D for convenience. The CFEC Rules are spread across multiple divisions of OAR chapter 660. Specifically, the Rules include: OAR 660-008-0010; OAR 660-008-0050; OAR 660-012-0000 - 660-012-0005; OAR 660-012-0011 - 660-012-0016; OAR 660-012-0035; OAR 660-012-0045; OAR 660-012-0060; OAR 660-012-0100 - OAR 660-012-0920; OAR 660-044-0000 - 660-044-0005; and OAR 660-044-0015 - 660-044-0130.

MOTION

In accordance with ORS 183.400, the cities of Cornelius, Forest Grove, Grants Pass, Happy Valley, Hillsboro, Keizer, Medford, Oregon City, Sherwood, Springfield, Troutdale, Tualatin, and Wood Village, along with Marion County (collectively, the “Coalition”), have petitioned for judicial review of the CFEC Rules. The Rules establish extensive new substantive and procedural mandates that dictate how cities and counties can and must develop. The mandates of the CFEC Rules do not work in many Oregon communities, and, in application, they have already begun to hamstring planning departments across the state. The Coalition respectfully requests that the Court exercise its inherent authority to issue an order staying the enforcement of the CFEC Rules while judicial review is pending. Such an order is proper because the Coalition is likely to succeed on the merits of its petition, Coalition members will suffer irreparable harm absent a stay, and a stay will not harm the public.

In addition to the following Memorandum, this Motion is supported by the attached declarations of Barbara Fryer, Cornelius Community Development Director (App-1) (“Fryer Decl.”); Jeffrey Dalin, Mayor of Cornelius (App-8) (“Dalin Decl.”); Ben Bryant, Happy Valley Assistant City Manager (App-13) (“Bryant Decl.”); Brandon Reich, Marion County Planning Director (App-21) (“Reich Decl.”); Matt Brinkley, Medford Planning Director (App-30) (“Brinkley Decl.”); Michael Liebler, Springfield Transportation Planning

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

Engineer (App-36) (“Liebler Decl.”); Sandy Belson, Springfield Interim Planning Section Manager (App-43) (“Belson Decl.”); Ray Young, Troutdale City Manager (App-54) (“Young Decl.”); and David O. Bechtold, lead counsel for the Coalition (App-61) (“Bechtold Decl.”).

MEMORANDUM IN SUPPORT

A. Introduction.

Given the subject matter of the CFEC Rules, a casual observer could misinterpret the purpose of the Coalition’s petition. The Coalition supports using Oregon’s land use planning system to create more climate-friendly and equitable communities. Indeed, members of the Coalition have effectively pursued these goals for years. *See, e.g.*, Dalin Decl. at ¶ 2; Bryant Decl. at ¶¶ 3-5; Belson Decl. at ¶¶ 4-6. This case is appropriately about making certain that these praiseworthy goals can be achieved, and that the Commission does not hamper local efforts by carelessly mandating rules that are not workable or will have unforeseen consequences. *See, e.g.*, Reich Decl. at ¶ 9; Bryant Decl. at ¶ 12.

The Coalition’s grave concerns with the CFEC Rules should be of no surprise to the Commission. Coalition members repeatedly voiced their concerns about the new mandates throughout the rulemaking process, but those concerns were largely ignored as the Commission pushed the Rules through in a deeply flawed process. *See, e.g.*, Dalin Decl. at ¶ 3. Having largely been

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

ignored for the past two years, the Coalition is now forced to take the extraordinary step of seeking the protection of this Court. A failure to stay the Rules at this time will result in each member of the Coalition being forced to change the course of its community and shift onto a development path that each believes is detrimental. Fundamentally shifting the planning priorities of communities, even if only for a year or two, will have lasting irreparable harms on each member of the Coalition far into the future. Fryer Decl. at ¶ 11; Bryant Decl. at ¶ 13; Reich Decl. at ¶ 15; Young Decl. at ¶ 17; Belson Decl. at ¶ 16. In the words of Cornelius’s mayor, implementation of the CFEC Rules “threatens to destroy the very character of our city and community.” Dalin Decl. at ¶ 2.

Motions for stays have a bad tendency to be hyperbolic, but this is a rare instance where a motion will directly, and meaningfully, impact the future of Oregon. If a stay is not issued, most of Oregon’s more populous cities and counties will be fundamentally changed for the worse.

B. Oregon’s Land Use System and the CFEC Rules’ Attempt to Usurp Authorities Delegated to Local Governments.

Oregon has a novel land use system in which the Commission sets statewide “planning goals and objectives,” and then local governments are “the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.” ORS 197.005(3) - (4). Oregon courts are well versed in the logic

and workings of this unique system. *See generally Lake Oswego Preservation Society v. City of Lake Oswego*, 360 Or 115, 118, 379 P3d 462 (2016); *1000 Friends of Oregon v. Wasco County Court*, 299 Or 344, 347, 703 P2d 207 (1985); *Homebuilders Assn. of Metropolitan Portland v. Metro*, 184 Or App 663, 671, 57 P3d 204 (2002). The success of the system arises from the incorporation of the statewide goals into specific plans that are crafted by local governments who better understand what strategies will work in their communities. While the Commission is required to ensure that local plans are consistent with statewide goals, local planning departments have the flexibility to find what works in their communities to achieve Oregon's objectives. This balance between statewide goals and specific local strategies is what makes the system work, and it is this foundational balance that the CFEC Rules have disturbed.

Instead of setting goals, such as requiring that cities work to reduce automobile reliance, the CFEC Rules are filled with statewide mandates that wrest control of important aspects of land use planning away from cities and counties. *See, e.g.*, Bryant Decl. at ¶¶ 7, 11-12; Young Decl. at ¶ 16. For example, the CFEC Rules strictly limit if and when a local jurisdiction can implement minimum parking space requirements. OAR 660-012-0420 - 660-012-0445. While reducing parking in some Oregon communities may result in more commuters choosing to bike or use mass transit, there are numerous

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

communities where a car will remain a necessity long into the future. *See, e.g.*, Dalin Decl. at ¶ 5; Reich Decl. at ¶ 4; Young Decl. at ¶ 11. Many of these car-dependent communities provide critical housing to underserved populations, and many of them are presently suffering from cramped and dangerous streets because of a lack of parking. Dalin Decl. at ¶ 7; Reich Decl. at ¶ 7; Bryant Decl. at ¶ 9. Exacerbating a parking crisis does not incentivize a parent who works two jobs in a city with insufficient public transit to abandon their car—it simply makes their commute longer, more dangerous, and more stressful.

Local governments are the entities that know whether eliminating minimum parking requirements will be effective in a particular area; similarly, they are the ones that know if such an action will have rippling negative impacts on their city’s transportation infrastructure. By dictating parking requirements to cities with a broad brush, the Commission has not only stepped beyond its statutory role, but it will also be creating and exacerbating problems in numerous communities. *See, e.g.*, Reich Decl. at ¶ 7; Young Decl. at ¶¶ 8-10.

Another goal of the CFEC Rules is to reduce vehicle miles per capita traveled. While a noble goal, the CFEC Rules purport to prohibit any land use decision relying on transportation modeling that “increase(s) vehicle miles traveled per capita.” OAR 660-012-0210(4). Such a strict mandate is extremely problematic to local planners because any development that adds vehicle trips without increasing population violates that requirement. Liebler Decl. at ¶ 6.

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Portland, OR 97201

503.664.3582

For example, most of the development applications that Springfield has received in 2022 have been for projects that could not be approved under OAR 660-012-0210. *Id.* at ¶ 9. Local governments need flexibility to balance projects in a manner that allows them to achieve vehicle travel reduction goals; they cannot simply stop all projects that may increase vehicle travel. *See, e.g., id.* If implemented, this rule will, in places, make it impossible to build critical new roads, or to upgrade streets that have become dangerously overcrowded. *See, e.g.,* Bryant Decl. at ¶¶ 6, 11; Belson Decl. at ¶ 14. Of note, in some areas of Oregon, the CFEC Rules make it likely that vehicle miles traveled will actually increase as development patterns are changed in unintended fashions. Brinkley Decl. at ¶¶ 6-8.

The Rules also require local jurisdictions outside the Portland Metro area to conduct a major rezoning effort by identifying “Climate Friendly Areas” and similar rezoning efforts will be required to identify “Region 2040 centers” within the Metro area. Climate Friendly Areas must cover “at least 30 percent of the total identified number of housing units necessary to meet all current and future housing needs” in cities and counties with populations over 10,000. OAR 660-012-0315(1). Different Climate Friendly Area zoning obligations apply to smaller cities and counties. OAR 660-012-0315(3). Once these areas are identified, they must be rezoned consistent with a litany of new, intrusive requirements. OAR 660-012-0320. These requirements aim to prioritize

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developing densely populated and pedestrian-friendly neighborhoods in cities' central cores. While this specific development strategy can work in some metropolitan areas, it simply will not work in many cities where low-density, single-family housing dominates. Asking Medford, Grants Pass, Cornelius, or unincorporated Marion County to develop areas in similar fashion to inner Portland is simply not wise. *See, e.g.*, Reich Decl. at ¶ 10; Brinkley Decl. at ¶ 9. The result of forcing dense development to occur in some areas will not be new, healthy neighborhoods, but instead, a stagnation of those areas and an exodus of residents to bedroom communities. This migration will only increase greenhouse gas emissions associated with commuting.

The CFEC Rules fill 136 pages, and the full impact of the Rules is not yet fully known. But, as cities work to better understand them, one thing has become clear—the Commission has taken steps to dictate the means of development to local governments at a level of detail never envisioned by the system. Indeed, the CFEC Rules are the most impactful and overly prescriptive set of requirements levied on local jurisdictions by the Commission since Senate Bill 100 and the creation of Oregon's planning system in 1973. *See, e.g.*, Bryant Decl. at ¶ 3; Fryer Decl. at ¶ 11.

While members of the Coalition welcome the underlying goals of the CFEC Rules, they cannot accept the Commission's improper dictation of prescriptive measures that will have negative impacts on their communities by

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503.664.3582

making it impossible for local planners to balance unique circumstances. To reach the goals, local governments must have meaningful and appropriate flexibility.

ARGUMENT

A. This Court Has Authority to Stay the Enforcement of the Rules.

This Court has the inherent authority to stay the enforcement of administrative rules challenged under ORS 183.400 during the pendency of the judicial review. *Northwestern Title Loans v. Division of Finance*, 180 Or App 1, 4, 42 P3d 313 (2002).² The leading Oregon case on this issue, *Northwestern Title Loans*, found that the power to stay enforcement of administrative rules arises from the Court’s inherent authority, not statute. *Id.* at 4-5. The Court then went on to deny the request for the stay because the petitioner had not shown “irreparable harm” would occur absent a stay. *Id.* at 13. The Court implied in a footnote that if irreparable harm was shown, then the petitioner would also have had to make a second showing of a “colorable claim of error.” *Id.* at 13 n 7 (contemplating applying the two prongs required for a stay in contested cases as provided by ORS 183.482(3)(a)). While implying that a multi-prong test applied, the Court declined to explicitly adopt that standard because its

² The *Northwestern Title Loans* decision was withdrawn by unpublished order as moot, but it has continued to be cited as authoritative. See *Lovelace v. Board of Parole*, 183 Or App 283, 288 n 3, 51 P3d 1269 (2002).

irreparable harm finding precluded the need to determine whether any other prongs applied. *Northwestern Title Loans*, 180 Or App at 13 n 7.

To best of counsel’s knowledge, no published Oregon opinion has more fully articulated the additional prong that *Northwestern Title Loans* failed to reach. However, a 2019 order from the Appellate Commissioner that stayed the enforcement of an administrative rule issued by the Oregon Liquor Control Board applied the following three-prong test: “likelihood that petitioner will prevail on judicial review, the likelihood of irreparable harm to petitioner in the absence of a stay, and the likelihood of harm to the public if a stay is granted.” Bechtold Decl. Ex. A (Order Granting Stay, November 14, 2019, *Herban Industries OR, LLC v. Oregon Liquor Control Commission* (A172546), hereinafter “*Herban Industries Order*”).³ On the same day that the Appellate Commissioner issued the *Herban Industries Order*, the Appellate Commissioner issued a similar order in response to a motion to stay a temporary rule adopted by the Oregon Health Authority. Bechtold Decl. Ex. B (Order Granting Stay, November 14, 2019, *Vapor Technology Association v. Oregon Health Authority*

³ The Coalition recognizes that orders from the Appellate Commissioner may not have the same precedential effect as opinions from the Court. However, it appears that the Court has delegated authority to the Appellate Commissioner to rule on motions to stay. *See generally Bova v. City of Medford*, 236 Or App 257, 236 P3d 760 (2010) (rejecting challenge to Appellate Commissioner’s delegated authority to rule on a motion to stay enforcement of a judgment pending appeal). Following the terminology used by the Appellate Commissioner in the *Herban Industries Order*, the Coalition refers to conclusions from that Order as conclusions of this Court.

(A172417 (Control)), hereinafter “*Vapor Technology Order*”). The *Vapor Technology Order* also evaluated for irreparable harm, likelihood of success on judicial review, and possible harm to the public. *Vapor Technology Order* at 7.

The Coalition directs its below arguments to the standard articulated in the 2019 *Herban Industries Order*, while highlighting that Oregon caselaw has not definitively resolved the relevant standard.

B. The Coalition is Likely to Prevail in this Judicial Challenge.

The Coalition satisfies the first requirement for a stay pending judicial review because it will likely prevail on the merits. In ruling on whether the petitioner had satisfied this prong in *Herban Industries*, the Court found that the petitioner need only demonstrate “*some* likelihood of success.” *Herban Industries Order* at 4 (italics in original). The Court’s emphasis that the showing need only be of “*some* likelihood” is consistent with the *Northwestern Title Loans* reference to the colorable claim standard. A “‘colorable claim of error’ is something less than a showing that the petitioner is reasonably likely to prevail on appeal.” *State ex rel Juv. Dept. v. Balderas*, 172 Or App 223, 229, 18 P3d 434 (2001). Stated differently, a colorable claim “means a claim of error that is substantial and nonfrivolous, or seemingly valid, genuine, or plausible.” *Bergerson v. Salem-Keizer School District*, 185 Or App 649, 660, 60 P3d 1126 (2003). As detailed below, the Coalition can clearly demonstrate that it has far more than “some” likelihood of success.

1. The CFEC Rules Failed to Comply with Legally Required Rulemaking Procedures and Are Therefore Invalid.

Oregon’s Administrative Procedures Act (“APA”) mandates that the Court “shall declare” rules invalid if they were “adopted without compliance with applicable rulemaking procedures.” ORS 183.400(4)(c). The CFEC Rules were adopted in flagrant disregard for numerous applicable rulemaking procedures. Specifically, the Commission failed to comply with rulemaking procedures set out in ORS 183.335, ORS 197.040, and ORS 197.047.

a. Improper Notice Under ORS 183.335(2)(b).

The APA requires agencies to give meaningful notice of their intended rulemakings, and specifically requires that they issue notices that include particularized information. ORS 183.335(2)(b). A copy of the Department of Land Conservation and Development’s (the “Department”) statutorily required Notice of Proposed Rulemaking (“Notice”) for the CFEC Rules is provided to the Court with this Motion. Bechtold Decl. Ex. C.

If a notice fails to meet statutory requirements, then a rule is invalid.

Friends of the Columbia Gorge v. Energy Fac. Siting Coun., 366 Or 78, 83, 456 P3d 635 (2020) (relying on ORS 183.335(11)(a)); *Fremont Lumber Co. v. Energy Fac. Siting Council*, 325 Or 256, 263, 936 P2d 968 (1997); *Watson v. Oregon State Penitentiary, Corr. Div.*, 90 Or App 85, 88, 750 P2d 1188 (1988). A court reviews these notices to ensure “substantial compliance” with the

requirements of ORS 183.335. *Friends of the Columbia Gorge*, 366 Or at 376-77; *Friends of the Columbia Gorge v. Energy Fac. Siting Coun.*, 365 Or 371, 376, 446 P3d 53 (2019). Here, a review of the Notice demonstrates that the Department failed to substantially comply with the requirements of ORS 183.335 for multiple reasons. Several of these fatal flaws are discussed below.

First Notice Error: ORS 183.335(2)(b)(A) requires a notice to include: “A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule[.]” The relevant Notice identifies no overarching statutory authority, but instead provides individual authority citations for each proposed rule. For 70 of the Rules, the Notice cited no meaningful statutory authority, but instead cited only to ORS 197.040, which is the Commission’s general rulemaking authority and not a delegation of any substantive authority. Bechtold Decl. at ¶ 7. Thus, whatever actual statutory authority might exist for the individual rules was missing from the Notice in violation of ORS 183.335(2)(b)(A).

The Department then highlighted its own error by adding numerous additional authorities in the Permanent Administrative Order that was filed with the Oregon Secretary of State’s office nearly a month *after* final adoption of the Rules. Bechtold Decl. at ¶ 7 (providing table comparing statutory authorities that changed between the Notice and Permanent Administrative Order). By not providing this statutory authority information in the Notice during the process,

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

readers were unable to determine what authorities the Commission was exercising for dozens of rules. Indeed, this was a concern repeatedly voiced by local governments who were concerned that the Rules went beyond the Commission's statutory authority. The Commission's blatant failure to identify its statutory authority in the Notice is a clear violation of the APA, which renders the CFEC Rules invalid.

Second Notice Error: ORS 183.335(2)(b)(C) requires a notice to include: "A statement of the need for the rule and a statement of how the rule is intended to meet the need[.]" While the Notice includes a "Need for the Rule(s)" section, that section is legally deficient because it does not identify an actual substantive need for the Rules or answer the question of how the Rules are intended to meet that need. Bechtold Decl. Ex. C at 1. Instead, the section simply cites to Governor Brown's Executive Order 20-04 as a catalyst to start rulemaking and is almost entirely silent on the actual underlying substantive need for the Rules. Even if the Notice sufficiently identified a need, it makes no attempt to explain how that need is being met.

Courts have not undertaken detailed fact-checking of statements of need and have only required that they identify the "need that the rule-proposing agency *perceives*.'" *Friends of the Columbia Gorge*, 366 Or at 87 (quoting *Fremont Lumber Co.*, 325 Or at 262) (italics in original). But, as recently as 2020, the Supreme Court has acknowledged that they must be written to allow

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

“interested parties to address the legal and factual premise of the proposed rule and consider alternatives for achieving the goal that the agency is pursuing.”

Friends of the Columbia Gorge, 366 Or at 86. The statement of need in the Notice does not provide a reader any meaningful information that allows them to address the premises of the Rules or consider alternatives. Indeed, the statement of need is so devoid of detail that a reader really has no idea what the Rules are about. Certainly, a reader would not anticipate that the Rules included 136 pages of detailed measures such as requirements for planting trees in parking lots, minimum parking bans, massive rezoning efforts, community outreach requirements, bike lane mandates, etc.

The *Herban Industries* Order discussed above dealt with a very similar statement of need in a rulemaking notice. While that petition dealt with a temporary rule, the Order acknowledged that the same standard applied to evaluating the sufficiency of the statements of need in permanent rules. *Herban Industries* Order at 3-4 (citing *Vier v. SOSCF*, 159 Or App 369, 376, 977 P2d 425 (1999)). The statement of need at issue in *Herban Industries* simply cited back to Executive Order 19-09 as the need for the rules. *Herban Industries* Order at 3-4. While the Court did not rule on the final merits, it acknowledged that petitioner had “*some* likelihood of success” and therefore issued the stay.

Herban Industries Order at 4.⁴ A comparison of the statements of need at issue in the *Herban Industries* Order and this case demonstrate a nearly identical rulemaking process error; indeed, the *Herban Industries* statement of need included a more detailed justification and was still found to be legally questionable by this Court. *Compare* Bechtold Decl. Ex. A at 3-4 *with* Ex. C at 1. The statement of need in the Notice cannot withstand judicial review.

Third Notice Error: ORS 183.335(2)(b)(E) requires, in part, the Notice to include: “A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public.” While the Notice included a six-page “Cost of Compliance” section, those pages provide virtually no meaningful analysis of the fiscal impacts on cities or counties. Bechtold Decl. Ex. C at 3-8.

A fiscal impact statement is required to identify entities that will be impacted by adopted or amended rules and “give the affected entities enough information to evaluate their position” and allow for meaningful participation in the rule adoption process. *Independent Contractors Research Institute v. DAS*, 207 Or App 78, 87, 139 P3d 995 (2006). If an agency determines that the fiscal

⁴ There was no final resolution of the merits in *Herban Industries*. After the rule’s implementation was enjoined by this Court, the agency withdrew the rule, and the petition was voluntarily dismissed.

impact cannot be quantified, the agency must then explain why the impacts could not be determined so as to allow an affected party to “understand what information, if any, the agency might need in order to make an informed decision.” *See Oregon Cable Telecommunications v. Dept. of Rev.*, 237 Or App 628, 638, 240 P3d 1122 (2010) (internal quotation marks and brackets omitted).

Here, the Notice does not attempt to quantify the fiscal impacts; it simply notes that the costs are difficult to estimate and will vary significantly across jurisdictions. Bechtold Decl. Ex. C at 3-6. It is unclear from the Notice if the CFEC Rules will result in a five percent increase in planning costs or a 500 percent increase. It is unclear if cities will be spending thousands or millions of dollars to comply. Any justification the Department offers for why the impacts cannot be estimated fails to provide impacted jurisdictions with the ability to “assess their particular positions and financial situations and determine the likely impact on them.” *The Building Department, LLC v. DCBS*, 180 Or App 486, 493, 43 P3d 1167 (2002) (internal quotation marks omitted).

The deficiency of the fiscal impact statement is even more egregious given that the Department never meaningfully engaged the cities in an attempt to estimate costs during the rulemaking process. It is now widely expected that compliance will cost each city millions of dollars per year. Nothing in the fiscal impact statement even suggests that cities will be required to spend millions of dollars to implement the Rules. It appears that the Department never took

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Portland, OR 97201

503.664.3582

satisfying this obligation seriously. Now, the undisclosed fiscal requirements of the Rules are on the verge of crashing city planning budgets across the state, or at the very least putting cities years behind in their development planning. *See, e.g.*, Fryer Decl. at ¶ 4; Belson Decl. at ¶ 15; Reich Decl. at ¶ 14. This failure to provide any meaningful notice about the magnitude of fiscal impacts is a clear violation of the APA.

Fourth Notice Error: The purpose of the Notice is to give interested parties an idea of where the rulemaking is headed, and the chance to participate in the process. While minor change is expected between the initial Notice’s draft rules and the final versions, an agency cannot promulgate a final rule if its subject matter was not contained within the scope of the original Notice. *Watson*, 90 Or App at 88-89. There are multiple examples of substantive differences between the Rules as they were proposed and adopted that renders the Notice inadequate.

One of the most egregious of these examples is a change made to OAR 660-012-0830, a rule that requires an enhanced review of roadway projects. As proposed, that rule only required analysis for future proposed facilities. Bechtold Decl. Ex. C at 104. When adopted, the rule was no longer just forward looking. The rule provided that the same analysis was required “[t]o retain a proposed facility that is included in an existing acknowledged plan.” OAR 660-012-0830(1)(c). This shift to forcing cities to reevaluate existing plans

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represents far more than a *de minimis* difference between a proposed and adopted rule, and its critical requirement relating to existing plans “did not appear in the rulemaking process until the final version.” *Watson*, 90 Or App at 88. As a result, the Notice was inadequate because it “was not broad enough to encompass” the backward-looking “subject matter of the disputed rule[.]” *Id.* When the cities highlighted this major concern at the last minute, they were entirely dismissed by the Department and told that their opportunity to comment had expired. The record will show that the cities never had meaningful opportunity to address this tremendously impactful change, and they now face incredible uncertainty as they will need to reevaluate past plans.

b. Failure to Provide Measure 56 Rulemaking Notice.

Under ORS 183.400, this Court shall strike down an administrative rule for failure to comply with any relevant rulemaking procedures, whether or not that procedure appears within the statutory confines of the APA. *Western States Petroleum Assn v. EQC*, 296 Or App 298, 308, 439 P3d 459 (2019) (acknowledging that the requirement to comply with “applicable rulemaking procedures” in ORS 183.400(4)(c) includes applicable rulemaking procedures both within and outside of the Administrative Procedures Act).

In 1998, Oregon voters overwhelmingly approved Ballot Measure 56, which placed additional rulemaking requirements on the Commission. Codified at ORS 197.047, Measure 56 requires the Commission to send notice to all

impacted cities and counties 90 days before the final public meeting related to various types of proposed rules. ORS 197.047(2). Rules that trigger Measure 56 include any “that limit or prohibit otherwise permissible land uses or cause a local government to rezone property.” ORS 197.047(10). A property is considered rezoned if a rule causes a local government to “(a) Change the base zoning classification of the property; or (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.” *Id.* The Rules clearly trigger the above requirement. Notably, the Rules require many cities to rezone 30 percent of their housing units as Climate Friendly Areas. OAR 660-012-0315(1), (3). Within these areas, a litany of new requirements and limitations must be applied, including a mandate that all such areas “shall allow single-use and mixed-use development within individual buildings and development sites.” OAR 660-012-0320(2). This will require a change of base zonings in many communities where a large majority of housing is currently in areas zoned exclusively as residential. Indeed, this change in base zonings is a primary goal of the CFEC Rules, which aim to intermix uses to further compress development.

Similarly, the Rules require that areas be rezoned to include ambitious minimum residential densities. OAR 660-012-0320(8). These minimum densities range from 15 to 25 housing units per acre. *Id.* These densities all but mandate that apartment buildings must be built, and as such prohibit the

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construction of standalone single-family homes. Thus, the Rules require fundamental changes to how cities are currently zoned, with a major shift away from exclusive/low density residential to mixed-use/high density residential zonings. Indeed, in discussing this potential litigation on a public radio program on November 10, 2022, the Department defended its actions by repeatedly noting that the Rules simply required rezonings.⁵ The Department has repeatedly admitted its intention to force cities and counties to rezone large areas through the CFEC Rules, yet it has never complied with Measure 56.

If effectuated, the Climate Friendly Areas designations will be a massive rezoning effort without precedent since the original zoning requirements that accompanied passage of Senate Bill 100. Despite clearly needing to send the Measure 56 notices, the Commission sent no such notices in blatant violation of the requirements established by the voters. Bechtold Decl. at ¶ 6.

Similarly, Measure 56 requires additional notices to be sent in relation to the effective dates of new administrative rules. ORS 197.047(6). Again, no such notices were sent. Bechtold Decl. at ¶ 6. The Commission's failure to send the

⁵ Oregon Public Broadcasting: Think Out Loud, *A group of Oregon cities are planning to sue the state over wide-ranging climate rules*, available at <https://www.opb.org/article/2022/11/09/a-group-of-oregon-cities-are-planning-to-sue-the-state-over-wide-ranging-climate-rules/> (accessed November 17, 2022) (the broadcast spans 17 minutes and 45 seconds; the most relevant comments are between 4:00-4:50).

required notices is a clear violation of Measure 56’s rulemaking requirements, which renders the Rules invalid under ORS 183.400.

c. Failure to Comply with ORS 197.040’s Rulemaking Requirements.

The Commission must also comply with the specific rulemaking requirements provided by ORS 197.040(1)(b), which require that all adopted rules shall:

“(A) Allow for the diverse administrative and planning capabilities of local governments;

(B) Consider the variation in conditions and needs in different regions of the state and encourage regional approaches to resolving land use problems;

(C) Assess what economic and property interests will be, or are likely to be, affected by the proposed rule;

(D) Assess the likely degree of economic impact on identified property and economic interests; and

(E) Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact.”

The Rules fail to satisfy each element of ORS 197.040(1)(b). Indeed, the very heart of this case is a disagreement between local governments and the Commission about whether subparagraphs (A) and (B) of ORS 197.040(1)(b) were accommodated by the Rules. As the declarations in this case show, local governments have been handcuffed by the Rules and are not being afforded the flexibility that ORS 197.040 requires that all Commission rules include. *See,*

e.g., Fryer Decl. at ¶¶ 4-7; Dalin Decl. at ¶ 8; Bryant Decl. at ¶¶ 10-12; Reich Decl. at ¶¶ 12-15; Young Decl. at ¶¶ 9, 16; Belson Decl. at ¶¶ 15-16. The record that the Department will assemble in this case will echo these comments as local governments filled the record with their concerns about the Rules.

Additionally, ORS 197.040(1)(b)(E) requires an assessment of whether alternative actions are available that would have a lesser economic impact. As admitted in the Notice's financial impact statement, the Department never determined what the financial impacts would be, and they never provided any type of assessment of whether alternatives would have a lesser economic impact. *See* Bechtold Decl. Ex. C at 3-6.

None of the Coalition members who participated in the rulemaking process were provided meaningful analysis of how the Commission was complying with ORS 197.040, despite repeatedly raising the issue in comments. All that was provided was a Department-generated page of conclusive statements very late in the process claiming that the requirements had been met. The record will show that the Commission ignored the requirements of ORS 197.040.

2. The Rules Go Beyond the Commission's Statutory Authority.

One of the largest legal flaws with the CFEC Rules is that the Commission has attempted to improperly insert itself into decisions that Senate Bill 100 assigned to local governments. Under the Oregon land use system, the

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Commission is charged with setting statewide “planning goals and objectives,” but “cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.” ORS 197.005(3) - (4). Cities and counties implement the Commission’s goals and objectives through comprehensive plans, and the Commission has authority to review those plans and their unique local strategies. ORS 197.010. The Commission can grant or deny “acknowledgement” of a plan, which is a certification of compliance with the statewide goals. ORS 197.251(1). But the Commission does not have authority to strictly dictate the means of compliance that are to be contained in a comprehensive plan in the first instance.

A review of the CFEC Rules demonstrates a seismic shift in the approach of the Commission to local governments that goes beyond the statutory grant of authority to the Commission. “To the extent that the rule departs from the statutory policy directive, it exceeds the statutory authority of the agency within the meaning of those words in ORS 183.400(4)(b).” *Nay v. Dept. of Human Services*, 360 Or 668, 681, 385 P3d 1001 (2016) (citing *Planned Parenthood Assn. v. Dept. of Human Res.*, 297 Or 562, 573, 687 P2d 785 (1984)) (internal quotation marks omitted). Under this standard, the Court is tasked with taking a deeper look to ensure that an agency’s rules have not departed from legislative intent, including arbitrarily displacing the role of local planning entities.

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The Coalition believes it will succeed on its statutory authority claims at the merits stage of this proceeding, but in the interest of economy, relies on the above rulemaking procedure claims to satisfy its showing of likelihood of success on the merits for purposes of an emergency stay.

3. Conclusion on Likelihood of Success on the Merits.

For purposes of a stay, the Coalition need only demonstrate that its claims are “seemingly valid, genuine, or plausible” or have “some” chance of success on the merits moving forward. *Bergerson*, 185 Or App at 660; *Herban Industries* Order at 4. As demonstrated above, the Coalitions claims satisfy this standard.

C. Communities Across Oregon Will Be Irreparably Harmed if a Stay Is Not Issued.

What the Coalition members face today is a textbook example of irreparable harm. Each member of the Coalition is a unique community, and Oregon’s land use system has allowed each of those communities to develop in unique ways. The Oregon Constitution recognizes the importance of local communities being able to self-determine, and specifically protects the authority of communities like these by ensuring them the right to home rule and independence in local governance. *See* Or Const, Art XI, § 2; Or Const, Art IV § 1(5). Tremendous time and resources have been put forward by each member of the Coalition to smartly develop into the community that their residents want

to call home. Community planning is a long game—plans are set years in advance and very intentionally. These community visions, and all of the work that has gone into them, is suddenly in jeopardy as a result of the CFEC Rules. *See, e.g.*, Bryant Decl. at ¶¶ 6-7; Belson Decl. at ¶ 15; Dalin Decl. at ¶ 2. Indeed, just one or two years of application of the CFEC Rules while this appeal is pending is likely to create massive problems within planning departments that will profoundly change the future of Oregon. *See, e.g.*, Young Decl. at ¶¶ 16-17.

As a matter of law, irreparable harm is an injury from which a party cannot receive a reasonable or complete remedy at law. *See Bergerson*, 185 Or App at 660. In the context of a stay, a showing of irreparable harm requires only that such an injury will “probably” occur absent a stay. *Id.* (quoting *Arlington Sch. Dist. No. 3 v. Arlington Ed. Assoc.*, 184 Or App 97, 102, 55 P3d 546 (2002)) (italics omitted).

This Court has been provided with declarations from the cities of Cornelius, Happy Valley, Troutdale, Springfield, and Medford, as well as Marion County, each of which details some of the troubles and impossibilities immediately faced by them in attempting to comply with the CFEC Rules. Those declarations tell a story of planning departments being forced to refocus their efforts as a result of the Rules, cities being forced to abandon core projects, and planners being stuck trying to apply rules that simply do not work

in their communities. The members of the Coalition would not petition this Court if the situation were not dire.

To illustrate some of the harms faced, the Coalition details four specific projects that face delay or termination as a result of the CFEC Rules, but there are innumerable projects like this across the state.

Cornelius, Oregon. The City of Cornelius has been working to make its community more equitable by improving the walkability of the city for the past 15 years. Fryer Decl. at ¶ 5. As part of that ongoing effort, Cornelius has current plans to spend hundreds of thousands of dollars to implement sidewalks along North Davis Street, South 4th Avenue, and South 20th Avenue. *Id.*

Implementation of the CFEC Rules will significantly delay, if not block entirely, the ability of the city to carry out those plans. *Id.* As a result, the significant time and other resources invested in those plans will have been wasted, and Cornelius will lack sidewalks it sorely needs. *Id.* As the Mayor of Cornelius states in his declaration, this type of interruption of planning efforts “threatens to destroy the very character” of Cornelius. Dalin Decl. at ¶ 2.

Happy Valley, Oregon. Currently 96 percent of Happy Valley’s working population commutes outside of the city for work, largely using personal vehicles. Bryant Decl. at ¶ 6. In an effort to reduce that reliance on vehicle commuting, one of the goals of the CFEC Rules, the city has prioritized creating employment opportunities within its boundaries. *Id.* For the past five to

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503.664.3582

10 years, Happy Valley has been working on plans to develop both a downtown area and an industrial park to achieve those goals. *Id.* The CFEC Rules have made it so that Happy Valley is uncertain if it can extend roads into these areas or provide sufficient parking necessary to serve new commercial hubs. *Id.* at ¶ 7. The CFEC Rules will certainly delay and potentially upend these critical projects in Happy Valley, resulting in the City being largely unable to reduce vehicle commuting for years to come.

Troutdale Oregon. The City of Troutdale is currently considering a proposal to develop 94 units of affordable housing in an area that is already dealing with a parking shortage. Young Decl. at ¶¶ 3-6. If the CFEC Rules are implemented, Troutdale will be unable to require sufficient on-site parking; indeed, the developer applicant for the project has indicated that once the CFEC Rules are implemented, it will file a new application with less parking than in the current application. *Id.* at ¶ 3. This lack of parking will have significant effects on businesses in the area, police response times will suffer as officers will be required to maneuver around congested streets when leaving the Sheriff's office that neighbors the project, and residents will be further subjected to overcrowded streets. *Id.* at ¶¶ 6-10. Because the CFEC Rules include parking requirements that take effect on December 31, 2022, the Rules will immediately exacerbate a parking problem that is already hurting parts of Troutdale. *See, e.g.,* OAR 660-012-0012(5)(e).

Springfield, Oregon. Pursuant to an ordinance adopted in 2016 that expanded the urban growth boundary (“UGB”), the City of Springfield has been working to develop the North Gateway expansion area that includes a total of 132.1 acres that are suitable for development. Belson Decl. at ¶ 8. This expansion is necessary to meet Springfield’s needs for employment lands under Statewide Planning Goal 9 (Economic Development). *Id.* at ¶ 7. Springfield contracted with a firm and received a project plan for the North Gateway UGB expansion area in November 2021 (before the first draft of the CFEC Rules) that took 15 months to complete. *Id.* at ¶ 13. The CFEC Rules’ various new requirements will render this plan effectively meaningless, and Springfield will not be able to perform the work identified by the plan. *Id.* For example, it is unclear if Springfield will be able to build new roads into the areas, which is critical because there are currently no existing public streets in the area. *Id.* at ¶ 10. The CFEC Rules will prevent Springfield from moving forward with its transportation planning work in the North Gateway area for the foreseeable future and delay completion of the project by at least a decade. *Id.* at ¶¶ 13, 15. The inability to carry out this work will be felt by Springfield’s community for years to come as the city struggles to meet its employment needs. *Id.* at ¶ 16.

The above examples provide just a taste of the issues faced by cities and counties across the state at this time. There are many more examples of

irreparable harm in the submitted declarations, and if it were appropriate, the

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503.664.3582

Coalition could flood the Court with examples such as the above. Absent a stay, Oregon is being forced onto a new detrimental track from which it cannot correct course. This is the very definition of irreparable harm.

D. The Public Will Not Be Harmed by a Stay.

Far from harming the public, a stay will protect the public. The Coalition is comprised of 14 local governments who have stepped forward to litigate these claims to protect their communities, but numerous other cities have voiced concerns about the impacts that these Rules will have on the public.

To the extent the Department and the Commission argue that these Rules need to immediately go into effect to create more climate-friendly or equitable communities, those arguments should be disregarded. First, community planning is a long game which takes time—even if the Rules work perfectly as designed, the benefits will not accrue for years. Reducing parking minimums today or planning to build a bike lane tomorrow does not immediately address the crises in front of Oregon. Second, the Rules are currently making it more difficult for many cities to meet the CFEC goals by stopping beneficial projects today. Cities and counties are not going to stop working to achieve the goals of the CFEC Rules if a stay is issued; instead, they will simply be given the leeway to pursue the goals in their own fashion. Third, shooting yourself in the foot in the name of progress is not progress. Every indication from the cities is that the CFEC Rules are going to backfire. Oregon cities and counties may only

have one chance to get it right on these issues, and rushing forward with a set of ill-advised rules is a recipe for disaster.

It must be noted that the Coalition has reached out and urged the state to come back to the table to design rules that will serve the public, and the Coalition continues to hope that such meaningful collaboration can occur. Oregon can do this correctly, but it requires everyone working together to achieve a goal. Tying the hands of Oregon's local planners will not effectively or efficiently achieve the goals we all want.

For the above reasons, the Coalition satisfies all necessary requirements for a stay, and the Coalition respectfully requests that the Court immediately stay enforcement of the CFEC Rules during the pendency of this judicial review.

CONCLUSION

There are few things more important to this state than ensuring that its unique local communities thrive. Oregon has developed a unique land use system that has allowed cities and counties to orchestrate unique communities, while also addressing broader societal issues through compliance with statewide goals. The CFEC Rules, while very well-intentioned, have upset this balance and will immediately cause massive unforeseen harms in communities across the state. If the cities and counties are forced to choke on these Rules during the pendency of this appeal, their communities will forever be changed, and the

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1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

goals that the CFEC Rules are attempting to achieve will remain elusive.

DATED this 21st day of November, 2022.

NORTHWEST RESOURCE LAW PLLC

s/ David O. Bechtold

David O. Bechtold, OSB No. 133019

dbechtold@nwresource.com

503.664.3582

Greg A. Hibbard, OSB No. 183602

ghibbard@nwresource.com

503.664.3583

Attorneys for Petitioners

NORTHWEST RESOURCE LAW PLLC

1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

CERTIFICATE OF FILING AND SERVICE

I certify that on November 21, 2022, I caused to be filed the original of this Motion to Stay Enforcement Pending Judicial Review with the Appellate Court Administrator by using the Appellate Courts eFiling System.

I further certify that on November 21 2022, I caused to be served a true and correct copy of the foregoing Motion to Stay Enforcement Pending Judicial Review by United States Postal Service, first class registered mail, on:

Denise Fjordbeck
Robert M. Wilsey
Attorney General of the State of Oregon
Office of the Solicitor General
400 Justice Building
1162 Court Street NE
Salem, OR 97301
Telephone: 503.378.4402

Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301
Telephone: 503.373.0050

Land Conservation and Development Commission
c/o Jan Guerrero, Executive Assistant to the Director &
Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301
Telephone: 971.718.3230

DATED this 21st day of November, 2022.

s/ David O. Bechtold

David O. Bechtold

Oregon State Bar No. 133019

NORTHWEST RESOURCE LAW PLLC

1500 SW First Avenue, Suite 985

Portland, OR 97201

503.664.3582

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF BARBARA
FRYER IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, Barbara Fryer, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the Community Development Director for the City of Cornelius. If implemented, the Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”) will commandeer Cornelius’s planning budget, disincentivize future development in the city, and harm the future of our community.

3. Cornelius’s planning department is comprised of two individuals—a senior planner and me. I cover all tasks associated with long-range planning; economic and community development; geographic information system technical issues; contract and grant administration; business license reviews; code enforcement; system development charge and transportation development tax calculations; the Planning Commission, City Council, and Parks Advisory Board; and any planning or economic development-related intergovernmental meetings. We also have a single city engineer who addresses all things infrastructure. We do not have a separate transportation planner or site development engineer.

4. If the CFEC Rules are implemented, the responsibilities imposed by the Rules, such as the required community engagement and transportation planning requirements, will require us to add another full-salaried employee to our department. The Rules are so onerous that the new hire will have to be solely dedicated to addressing the CFEC Rules if my colleagues and I are to maintain our current responsibilities. Given our small department and limited budget, an

additional salary with benefits will be burdensome. If we are unable to hire or afford another employee, I will be unable to meet my current obligations because of the responsibilities imposed by the CFEC Rules. This will result in critical city planning tasks going undone, which will have ripple effects throughout our community.

5. Not only will personnel be stretched impossibly thin by the CFEC Rules, but their implementation will also supplant our planning budget. We will be forced to abandon critical projects we are currently pursuing in order to redirect funds to address the burdensome transportation planning obligations of the CFEC Rules. For example, we have been working to improve the walkability of Cornelius for the past 15 years by adding sidewalks, something that is needed for community safety and to make our community more climate friendly, accessible, and equitable. As part of this effort, we have current plans to spend hundreds of thousands of dollars to add sidewalks to North Davis Street, South 4th Avenue, and South 20th Avenue. Planning efforts for the North Davis Street have been ongoing for a decade. If the CFEC Rules are implemented, we will likely be unable to carry through on those projects. Not only will we lose the time and investment we have put into those projects, but the community will also lack the sidewalks it sorely needs and whose construction is exactly the type of infrastructure that the CFEC

Rules purport to incentivize. Indeed, the perverse result is that the CFEC Rules are stifling the type of development that they were intended to catalyze.

6. Cornelius needs urban growth expansion now to update and accommodate our growing city. We have adopted a transportation plan to meet those needs. However, under the CFEC Rules, we will need to complete a new plan. That will set the community back years, a delay it is unlikely to recover from for decades. Under the CFEC Rules, the majority of growth must occur in the downtown “Metro Region 2040 centers” (or in “Climate Friendly Areas” if outside of the Portland Metropolitan Area) as defined by the Rules, making it more difficult to expand and develop critically needed new areas. As a result, Cornelius will be forced to compact when it needs to expand, and those areas that are outside of the newly zoned areas will suffer as necessary resources are siphoned away from them by the Rules.

7. The CFEC Rules will inhibit Cornelius’s ability to further develop the city into the community that it has envisioned for itself. Cornelius is approximately 2.4 square miles. Due to the small size of our city, the CFEC parking requirements cover virtually the entire city and all the districts zoned for industrial use. Any project that includes over one quarter acre of surface parking must have specified amounts of solar panels (or pay \$1,500 per parking space) or 50 percent tree

canopy. Additionally, the Rules require a program to ensure ongoing compliance with standards for tree planting and care. We currently have 50 acres of land available for development. Those requirements will render many potential investments entirely infeasible because the Rules will tie the city's hands moving forward. This is not how Oregon's land use system was intended to operate, and it will have major implications moving forward.

8. The above costs associated with surface parking under the CFEC Rules would have been cost prohibitive and prevented three of the most important recent investments in our community if the Rules had been in place. Specifically, the Rules would have killed: (1) a 386-unit apartment complex; (2) a chemical storage warehouse; and (3) a manufacturing and warehousing building. These projects have provided significant housing and employment opportunities in Cornelius. I am concerned that Cornelius will miss out on future investments due to the CFEC Rules.

9. The CFEC Rules will also harm those with limited mobility. Cornelius will no longer be able to require off-street parking for people with disabilities. Many developers will likely decide to stop providing parking and instead shift this burden onto nearby streets, resulting in less direct access and street overcrowding. The prospect of not being able to find direct access parking is

particularly concerning for me as I walk with crutches. The CFEC Rules will limit or will burden my ability to attend events throughout Cornelius.

10. The CFEC Rules will also create parking problems associated with housing developments in Cornelius. In the past few years, we have increased the number of permitted multifamily units—113 units in 2021 and 386 units in 2022. Under the new CFEC Rules, multifamily units are required to have electronic vehicle charging infrastructure in 40 percent of provided parking. OAR 660-012-0410(3). Due to the additional costs associated with that amount of electric vehicle capacity, we fear that multifamily developments would elect to provide no parking to avoid violating the CFEC Rules. As discussed in Mayor Dalin’s declaration, a lack of parking will make it difficult for families to have the transportation that they need, and it will pose a safety risk as parking will crowd the streets and sidewalks. The potential for these risks is only growing.

11. The above are just a few examples of how the CFEC Rules will have immediate negative impacts on the City of Cornelius. The reality is that the CFEC Rules will have major repercussions on every element of Cornelius’s future development. I am unaware of any set of rules from the Land Conservation and Development Commission that is as overly prescriptive as what has been put in place with the CFEC Rules. Our latitude to determine how Cornelius should

develop has been significantly curtailed, and if the CFEC Rules remain in place, our community will be very different than the one we have been working to build.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 10th day of November, 2022.



Barbara Fryer

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF JEFFREY DALIN
IN SUPPORT OF PETITIONERS'
MOTION TO STAY ENFORCEMENT
PENDING JUDICIAL REVIEW

I, Jeffrey Dalin, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I have been the mayor of Cornelius, Oregon since November 2011. The population of Cornelius is approximately 13,000. We are one of the few communities that is classified as “minority majority” in Oregon, as the Latinx community constitutes over 50 percent of our community. Many of our households, if not most, are multi-family or multi-generational. We are proud of our moniker of “Oregon’s Family Town.” Cornelius is in alignment with the spirit and goals of the Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”). However, I have great concern over the Rules because their implementation threatens to destroy the very character of our city and community.

3. We engaged in the rulemaking process by submitting multiple rounds of comments to the Department of Land Conservation and Development. However, our concerns were left unaddressed by the Rules. Indeed, many of the cities who participated in the rulemaking process came away feeling disingenuously ignored. Collectively, we came away believing that the CFEC Rules were setting cities up for failure on numerous fronts.

4. Because most of Cornelius lies within a half mile of a priority transit corridor, the city will be very limited in its ability to require additional parking investments moving forward. OAR 660-012-0440(3). As I understand the CFEC Rules, this limit on parking is intended to reduce individual vehicle use by

increasing reliance on public transportation. While a shift to public transportation sounds good, it is not something that can be immediately achieved in Cornelius and a shift to this planning model will have immediate negative impacts on the residents of Cornelius.

5. Cornelius is a city of commuters. If you look at a map of Cornelius, you will note that it sits in a largely rural setting but is connected to Hillsboro via Highway 8 to the east, with Highway 47 also providing access to various other parts of Metro. Given the city's demographics, many of our residents work multiple jobs and require the ability to get between jobs quickly. Even after the pandemic, it is a fallacy that people work where they live. As Cornelius explained to the Department of Land Conservation and Development and the Land Conservation and Development Commission in its November 24, 2021 comment letter, federal 2020 Census data reflects that only 350 individuals both work and live within Cornelius. Based on local and federal 2020 Census data, between 5,650 and 6,323 residents of Cornelius commute out of the city for their jobs. For example, I have a 7.5-mile commute to Hillsboro for work each day. By car, it takes me approximately 17 minutes each way. If forced to take transit, it would take me about an hour, including 20 minutes of walking.

6. Residents in Cornelius are currently dependent on cars, and that is extremely unlikely to change any time soon. The lone, linear bus line that bisects Cornelius is insufficient for all our residents to commute. The current bus runs on a 15-minute frequency in Cornelius and takes over two hours to get to Tigard. A bus would need to leave Cornelius at intervals of less than a minute to provide enough seats for Cornelius residents, let alone residents from other locations. It is simply not plausible.

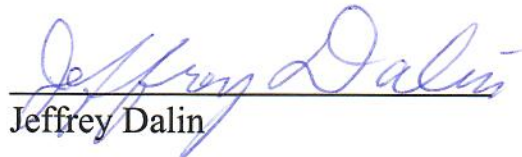
7. Limiting our ability to require parking in the city poses a dangerous hazard to our community. Cornelius has already attempted the strategy proposed by the Rules and introduced more dense housing by limiting available parking. The results have been a disaster. For example, on Holiday Street, the townhouses have insufficient parking. Many elderly individuals, children, and pets reside in those homes. If you drive down Holiday Street today, the impacts caused by the lack of available parking is plainly apparent—cars park wherever they can possibly fit, including on the sidewalks. Driveways abutting the street are often stacked two cars deep, with one of the cars protruding into the street. It is clear to any passerby that this parking program is not working. Residents that walk in this area must be wary of cars on the sidewalks and are often forced blindly into traffic to simply get around illegally parked cars. The CFEC Rules require similar or more extreme

limitations on parking in areas of dense housing. I am concerned that implementing the CFEC Rules will create a risk to the residents of Cornelius—the very residents that the Rules are intended to benefit.

8. The City of Cornelius cares deeply about the climate and equity. The Rules do not enable us to achieve climate or equity goals; they hamstring us from doing so and lead to inequitable outcomes. We have a vision for Cornelius moving forward, and that vision includes an equitable and climate-smart community; unfortunately, the overly restrictive CFEC Rules will make it more difficult for us to achieve that goal as we have our hands tied by “solutions” that do not work for Cornelius. If the Rules are not immediately stayed, our city will suffer for years and decades to come.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 9th day of November, 2022.


Jeffrey Dalin

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF BEN BRYANT
IN SUPPORT OF PETITIONERS'
MOTION TO STAY ENFORCEMENT
PENDING JUDICIAL REVIEW

I, Ben Bryant, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the Assistant City Manager for the City of Happy Valley. I have a Bachelor of Arts in Economics from Willamette University and Master of Public Administration, City Management from the University of Kansas. Prior to joining Happy Valley in 2015, I served five years as a Management Analyst and the Economic Development Manager for the City of Tualatin. I was on the Board of Directors of the Oregon City/County Management Association from 2017-2020.

3. While the goals of the Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”) are well intended, they simply will not work for Happy Valley as currently designed. The Rules represent the most impactful rules handed down from the Land Conservation and Development Commission in my career. Implementing the Rules will be problematic on many levels and will ultimately create a very different future than the one we are striving to build in Happy Valley. I fear that these rules will cause irreversible harm that will ripple through the city for years to come.

4. Many of the goals of the CFEC Rules are objectives that Happy Valley has been successfully working toward for years. Our concern is not with the goals, but with the methods and processes that have been prescribed to meet those goals and the unintended consequences that those mandates will have in Oregon.

5. While Happy Valley is one of the fastest growing cities in Oregon, we

only have three full-time employees to handle the city's planning needs. The CFEC Rules will require voluminous staff time to update the development code and Transportation System Plan to comply with the Rules. This will have the perverse effect of forcing our planning staff to spend time on the CFEC Rules' burdensome bureaucratic requirements, which will shift resources away from the planning work that is currently being implemented to make Happy Valley a more equitable and climate-friendly community.

6. The Rules will impede Happy Valley's future growth, which has been designed with climate and equity in consideration. Based on census data, 96% of the working population of Happy Valley commutes outside of the city for work. We recognized and prioritized the city's needs for more local employment options to become more climate friendly before the CFEC Rules were issued. Two of Happy Valley's most important future projects are the development plans for a future downtown area on the edge of the city and the expansion of the Rock Creek Employment Center, a regionally significant industrial area identified by Metro. These plans have been in the works for the past five to 10 years and are intended to bring more balance to a largely residential, commuter community. However, both projects are on the edge of the city and, as such, will be strongly disincentivized by the CFEC Rules which seek to promote development in city cores with good transit

infrastructure. Happy Valley, however, does not have such areas to build up and lacks the ability to increase regional transit services.

7. The CFEC Rules will divert critical resources away from these plans and impose additional barriers to completing the projects. For example, the Rules call into question whether we will be able to extend roads into those areas. Lack of adequate connectivity to the new downtown and employment areas will likely make it nearly impossible to attract businesses and employees.

8. Similarly, it is also unclear whether we will be able to have sufficient parking in the areas of the future projects to support the necessary development. Currently, transit is non-existent in these areas as they are outside of the TriMet Service District Boundary. It is merely speculative and far from certain that the boundary and subsequent bus lines will be extended. Even if such extensions occur, it will be unsafe for the community to walk in the area to access transit if we are not able to fully develop the area. Essentially, the city's plan to reduce commute lengths by planning employment centers in our community will be upended by implementation of the CFEC Rules that were, in part, designed to address the very issue we are looking to solve with these projects.

9. The manner in which CFEC Rules seek to slash parking is concerning. One-third of recently built developments in Happy Valley provided only the

minimum number of parking spaces required. A significant portion of these developments are multifamily complexes, some of which are not in the TriMet service boundary. Eliminating parking minimums will impact those living in multifamily developments the most. Currently, many multifamily developments do not have nearby on-street parking or contiguous safe sidewalks between the multifamily development and a place to park. In the future, community members living in these types of developments will be forced to walk in unsafe conditions to find legal, on-street parking. This is a serious safety concern that is likely to be quite common for developments on the fringe of the Metro region. It also has a disproportionate impact on lower-income families in which parents are forced to balance commutes to one or more jobs in addition to numerous other obligations. We would like Happy Valley to be a reasonable option for anyone to live. With infrequent transit available in much of the city, we would like to accommodate families with vehicles.

10. Happy Valley is one of the most racially diverse cities in Oregon, with 25% identifying as a race other than white. For the last several years, the city has worked to cultivate meaningful relationships with underrepresented groups in charting the course of our community. Unfortunately, the Rules circumvent the city's ability to work with our own community. In particular, the CFEC Rules will

undercut Happy Valley's Diversity, Equity, and Inclusion Strategic Plan. A community-driven task force helped the city to collect an unprecedented level of community opinion in the formation of that plan. Now, the Rules will require the city to rewrite portions of this plan without time to reengage the community at the same level. The CFEC Rules will make Happy Valley's prior equity efforts appear disingenuous and will unravel progress that Happy Valley has made in its own community.

11. Another project that the CFEC Rules will upend is the upgrading of county roads that Happy Valley has inherited through annexation. Some of these roads have not been adequately maintained, are very narrow, and do not have sidewalks. Many roads without sidewalks, including those near transit, have ditches running parallel alongside the road. As a result, those walking, using wheelchairs, or riding bikes are forced into the flow of traffic. In order to have streets that facilitate equitable and climate-friendly pedestrian use, we need to upgrade these streets. Southeast 172nd Avenue is just one example where significant improvements must be made to ensure pedestrian safety. These types of improvements typically occur in increments when adjacent properties are developed, or a government-initiated capital project spurs those improvements. The attention and resources diverted to complying with the CFEC Rules will

increase the delay in making those improvements as developments in these newly annexed areas are put on hold.


12. While the Rules are well-intended, the one-size-fits-all approach to the goals contemplated by the CFEC Rules only serves to harm Happy Valley and Oregon. Our city has already demonstrated its strong desire to help address environmental and equity goals. Prior to the adoption of the Rules, the city worked aggressively to be recognized by the Arbor Day Foundation as a Tree City USA for 18 years. Furthermore, the city put significant natural resource protections in the development code to preserve stream corridors, riparian areas, steep slopes, and more. The city contains approximately 481 acres of parks and natural areas and prioritizes protections of these areas for generations to come. With limited staff resources, all of this work is at jeopardy, simply to focus on implementing the misguided CFEC Rules.

13. Given the breadth of the Rules, there is a great deal of uncertainty around what other detrimental impacts will result from immediate implementation of the Rules. One thing is for certain: the CFEC Rules will hamstring Happy Valley's efforts to meet the needs of its community for years to come. As Assistant City Manager, it is my job to help craft the community of the future. Happy Valley must become more climate friendly and more equitable. I agree that we need goals

to those ends. However, by dictating the means through which this should be accomplished in every city, the CFEC Rules displace professionals like my colleagues and me. In my professional judgment, the prescriptions in the CFEC Rules may work in some places, but they will backfire in many others. The CFEC Rules will undercut Happy Valley's ability to utilize its own strategies to meet the statewide goals.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 8th day of November, 2022.


Ben Bryant

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF BRANDON
REICH IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, Brandon Reich, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the Planning Director of Marion County. I have worked in the Planning Division of Marion County since 2000, having previously held positions with the county as a Senior Planner and Associate Planner. During my time at Marion County, I have processed all kinds of land use applications and worked with cities on reviews of their urban growth boundaries. I have also served on committees developing administrative rules or recommending legislation related to population forecasting and urban growth management.

3. The Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”) do not only implicate cities, but counties as well. For example, a portion of the Rules governing Climate Friendly Areas applies to cities and counties with populations of more than 5,000 within an urban growth boundary (“UGB”). OAR 660-012-0310(1). Marion County is growing rapidly and has a population of approximately 40,000 in the unincorporated area within the Salem-Keizer UGB. Accordingly, Marion County is required to comply with the CFEC Rules. If the Rules are implemented, Marion County will be required to radically change how it is currently developing and will be forced to take numerous actions that simply do not make sense in the unincorporated areas of the county. These shifts in policy will have numerous unforeseen consequences, and the Rules will ultimately cause significant harm to our community.

4. The CFEC Rules aim to increase reliance on public transit, bikes, and walking by reducing parking availability. While that may be possible in some areas of the state, the area of Marion County subject to the CFEC Rules is extremely reliant on automobiles for commuting. Given the realities of the regional economy, that reliance is not going to change by implementing the CFEC Rules. Roughly one-third of Marion County's working population must commute outside of the UGB for work. Many of these residents have schedules that require a vehicle. Working from home, even following the pandemic, is not an option for many in our community. Significant portions of our community clean houses, build houses, work at prisons, staff hospitals, clerk at retail or grocery stores, work in agriculture, etc. These are not nine-to-five jobs that lend themselves to a bus schedule. A car is even more of a necessity when such work schedules are combined with obligations associated with family, the need to access medical care, and community commitments.

5. There is insufficient transit infrastructure to support an abrupt move away from commuting vehicles in our area. Because Marion County is not in the Portland Metro TriMet area, we do not have available light rail or rapid transit. I experienced the inability to rely on the transit system firsthand. I worked next to the downtown Salem bus terminal for eight years but was still unable to rely on the

transit system because of my work schedule. In some areas, there is one bus in the morning and one bus in the evening, forcing some to wait for hours after work to catch a bus home.

6. The CFEC Rules incentivize use of transit without requiring expansion of transit infrastructure. The CFEC Rules appear to be inequitably skewed in favor of white-collar jobs in metropolitan areas in a manner that contravenes the purpose of Goal 9 of Oregon's Statewide Land Use Planning Goals.

7. Marion County is already working to reduce parking where appropriate. However, pushing towards zero required parking is very problematic. We already receive a high level of complaints about packed streets. Neighboring property owners are likely to oppose further developments in densely populated areas because if more units are added without adequate parking, street parking will spill over and worsen safety and congestion issues. Along Lancaster Drive, which is a significant commercial district in unincorporated Marion County, we are already dealing with the negative impacts that the CFEC Rules are likely to exacerbate. The apartments in this area cost about \$1,600 per month. Many renters require two people and two incomes to afford that rent. Accordingly, these renters often own two vehicles and parking becomes scarce. The primary tool we have to

ensure that these cars do not flood community streets is to require parking at new developments, but the CFEC Rules largely take that ability away from us. I am concerned that if we cannot mandate adequate parking, future developments will compound parking problems as areas in and around multifamily dwellings become dangerously overrun with cars.

8. The CFEC Rules have also delayed development of code amendments to support affordable housing options in unincorporated Marion County. Marion County Planning had been developing code to allow middle housing (duplexes, triplexes, fourplexes, townhomes, and cottage clusters) in single-family zones. Marion County Planning had also been developing code to permit more kinds of mixed use (commercial and residential uses together on the same property) in commercial areas of the unincorporated portion of Marion County, particularly along Lancaster Drive. Since the county will no longer be able to require parking in conjunction with those developments, these code amendments are on hold because of the likely opposition of citizens in our community to middle housing and mixed use development that does not include parking.

9. The CFEC Rules also limit Marion County's ability to encourage housing in affordable price ranges. We do not yet know where the Climate Friendly Areas will be designated within Marion County. However, Marion

County Planning is working to ensure that no Climate Friendly Areas are designated in areas already zoned for single family housing. Areas in unincorporated Marion County tend to have more affordable single-family housing than other areas of the county. Rezoning them as Climate Friendly Areas (and, as such, requiring much denser developments and also reducing the inventory of affordable single family homes) would have a disproportionate impact on affordable housing in the entire region and could displace people from homes that are already affordable. This runs afoul of Goal 10 of Oregon's Statewide Land Use Planning Goals that is geared towards providing housing to serve people at a variety of income levels. The CFEC Rules will have the undesired and inequitable consequence of pushing all those below a certain income threshold into apartments because of the minimum housing density requirements. The Climate Friendly Area minimum density requirements make it essentially impossible to build single family homes in Climate Friendly Areas. Blue collar workers must be able to own homes, too.

10. Given the lack of land we have to work with, Marion County will have to implement dense housing at levels above the requirements in the Rules. For instance, townhomes will be insufficient under the Rules because we would only be able to provide 8-10 units per acre, much less than the required 20 units per

acre under the Rules. Attempting to force residents into apartment buildings and develop Marion County in the same fashion as portions of Portland is inequitable and unworkable.

11. The CFEC Rules also require that we provide approximately 200 acres of land zoned for a Climate Friendly Area to accommodate at least 30 percent of housing units necessary to meet current and future housing needs in the unincorporated area of the county. The height requirements and minimum density of 20 units per acres will require nearly all of this housing in this area to be apartment buildings to meet the requirements of the Rules. Requiring that our limited resources be used to perform planning work related to one type of housing, in one location, contravenes the purpose of Goal 10, which requires jurisdictions to plan for flexibility in housing location, type, and density.

12. The CFEC Rules alter governance structures of work programs under OAR Chapter 660, Division 44, “Metropolitan Greenhouse Gas Reduction Targets.” For instance, OAR 660-044-0100 – 0110 now require a new governance structure to make decisions, undertake tasks, and establish performance standards. This structure would place the county in a committee with city jurisdictions that have different levels of funding and staffing resources to perform the work and fund projects. Additionally, incorporated areas often already have higher levels of

services for development in place which would put the county behind at achieving the goals of the governance structure and place greater demands on the cost of development in unincorporated Marion County. These greater costs to developers would further drive up the cost of housing.

13. The CFEC Rules will require Marion County to immediately begin changing the types of transportation projects we fund in the unincorporated area because of the time it takes to identify and engineer projects. Some projects will have to be funded to meet the goals set by the governance structure in the Climate Friendly Areas, which will reduce transportation investments in other parts of the unincorporated area. For instance, Marion County may be unable to fund necessary future roadway capacity projects in the unincorporated area.

14. Marion County staff resources required to implement the CFEC Rules, even with the state providing funding for consultants to do some of the work, could exceed \$1,700,000 over the course of the planning period. This will have a significant impact on local resources. The Rules essentially require Marion County to establish a new program area without adequate funding or staffing to perform the work.

15. The strict mandates in the CFEC Rules present a one-size-fits-all approach that assumes areas like Marion County can be treated the same as

Portland. That is simply not the reality. The Rules will change the course of our community but will not provide solutions to the problems created by the Rules. Marion County will suffer the detrimental consequences of the CFEC Rules for years to come.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 8 day of November, 2022.

Brandon Reich
Brandon Reich

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF MATT
BRINKLEY IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, Matt Brinkley, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the Planning Director for the City of Medford, where I have worked since 2017. Previously, I worked as the Director of Planning in Phoenix, Oregon for nearly three years. I also served as a Senior Planner in Lansing, Michigan for six years. I obtained a Master of Urban and Regional Planning degree from Michigan State University.

3. I was actively involved in the rulemaking process for the Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”) as an alternate on the Rulemaking Advisory Committee (“RAC”). Throughout that process, I expressed concerns I had about the impacts and unintended consequences that the Rules will have for the City of Medford and other affected local jurisdictions. I maintain many of those concerns, as I now oversee the City’s effort to achieve compliance with the Rules.

4. Under the CFEC Rules, Medford is required to undertake a “Major Update” of its Transportation System Plan in certain circumstances. Many of these circumstances are encountered during the review of development proposals and land use actions. The Rules greatly expanded the requirements to complete a Major Update, adding, significantly, to the time and expense of land use entitlements and subsequent development. For some development proposals, the Rules will add a new, time-consuming, and costly step to the entitlement process. For other

proposals, actual costs, or even the perception of additional costs and uncertainty, will discourage development. In addition, new requirements will place unanticipated burdens on the city's resources, especially current staff capacity. Medford has estimated that it will need at least one additional full-time employee in its Planning Department just to administer the Rules. Similar staffing impacts are expected for its public works department.

5. The new delays and uncertainties caused by the CFEC Rules will be problematic in multiple areas in Medford. For example, the area around Interstate 5 at Exit 27 is already over capacity, and capacity-increasing projects will need to be built in order for development to continue in this area. It is uncertain if and when this will occur, but it will surely be delayed by the CFEC Rules.

6. In my experience, these additional delays, costs, and uncertainties will lead housing developers to look for different locations to develop housing without those additional hurdles. Jackson County contains several cities and unincorporated urban areas with population sizes that make them largely exempt from many of the most onerous CFEC Rules, including Rogue River, Eagle Point, and White City. These communities are close enough to Medford that many residents will consider buying housing there and commuting to Medford for work. Rogue River is an approximately 42-mile round trip to Medford and Eagle Point is

an approximately 27-mile round trip to Medford. For contrast, Exit 27 is an approximately four-mile round trip from downtown Medford.

7. This shift in housing will also inhibit the viability of bicycle commutes. Currently, it is a viable option for residents to commute by bicycle from areas around Exit 27 to Medford's downtown via the City of Medford's Bear Creek Greenway. However, commuting by bicycle from Rogue River or Shady Cove to a workplace in Medford is unrealistic.

8. Ultimately, given the above dynamics, although the goals of the CFEC Rules are purportedly intended to make communities more climate friendly by reducing reliance on vehicles, implementation of the Rules will actually increase vehicle miles traveled and increase associated greenhouse gas emissions. This is because we simply will not be able to provide desired housing in our city. Individuals looking for affordable houses will become longer-distance commuters.

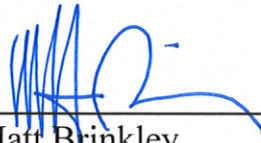
9. Additionally, requirements for the Climate Friendly Areas ("CFAs") imposed by the Rules also risk inequitable outcomes in Medford. This is because homeownership opportunities will be significantly constrained due to the type of housing that will be allowed to be built in CFAs. Due to mandatory minimum densities imposed by the Rules, only higher density housing will be built in CFAs. Higher density housing is more costly to develop on a per unit basis than single-

family detached housing. Without subsidies that reduce development costs, higher development costs will be passed on to renters in CFAs, making CFAs inaccessible to lower-income households and difficult to attain for middle-income households. And, because of challenges related to Oregon's condominium law and construction defect liability, higher-density housing will be developed for rental tenure in almost all instances. Even households with financial means will not be able to find homeownership opportunities in CFAs. Black, Indigenous, and People of Color ("BIPOC") households, particularly Black households that have suffered historical exclusion from homeownership and the intergenerational wealth-building conferred by that opportunity, are likely to be excluded from the benefits of CFAs as BIPOC families are forced to choose between homeownership and living in a walkable, mixed-use, and amenity-rich urban neighborhood. The Rules will effectively create a situation where only wealthier renters will be able to live in CFAs. Meanwhile, Medford will be forced to focus development in these wealthy areas. Focusing resources on wealthy "climate oases" is not equitable.

10. I have only outlined some concerns with implementation of the CFEC Rules. In truth, the full extent of the detrimental consequences of the Rules is unknown. What is known is that if the CFEC Rules are implemented immediately, the negative effects will be felt in Medford for years to come.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 17TH day of NOVEMBER, 2022.



Matt Brinkley

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF MICHAEL
LIEBLER IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, Michael Liebler, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I have served as the Transportation Planning Engineer for the City of Springfield since November 2010. I have been licensed as a professional civil engineer by the Oregon State Board of Examiners for Engineering & Land Surveying since September 2011. I have a Master of Science in Civil Engineering from Oregon State University. As detailed below, I am concerned about the effects that the Climate-Friendly and Equitable Communities Rules (“CFEC Rules” or “Rules”) will have on Springfield.

3. The CFEC Rules require that whenever a city or county relies on “transportation models or mathematical analysis of the transportation system to make a land use decision,” it must include modeling or analysis to show that the land use decision “will not increase vehicle miles traveled per capita.” OAR 660-012-0210(1), (4). There are no exceptions in this rule that explicitly allow the city to presume that certain types or sizes of development will have less than a significant impact on vehicle miles traveled (“VMT”) per capita; the rule states a strict standard that the land use decision must be shown that it “will not increase” VMT per capita.

4. The term “mathematical analysis of the transportation system” is not defined in the Rules. In the field of transportation engineering, this term is commonly understood to mean the application of numbers in a mathematical

function to evaluate some aspect of the City's system for moving people and goods throughout the community. This would include, but would not be limited to, any calculations with numbers that predict or model expected motor vehicle traffic, street capacity, bicycle and pedestrian capacity, crash frequencies, or traffic conflict points.

5. In Springfield, site plan review is required under Springfield Development Code ("SDC") 5.17.110 for any commercial or industrial development or redevelopment that is greater than 50,000 square feet; expansions of more than 50% of the existing development; or development or redevelopment of any size that is proximate to certain Goal 5 natural resources, adjacent to residential development, or within mixed-use zoning districts. Certain residential developments that elect discretionary design review under SDC 4.7.385 also require site plan review. Additionally, site plan review applies to any non-residential development that triggers the need for a Traffic Impact Study ("TIS"). To determine whether a TIS is necessary, SDC 4.2.105(B) requires a preliminary mathematical analysis to determine whether the proposed development would generate 100 or more trips during any peak hour, or 1,000 or more trips per day. Because every site plan review must conduct this preliminary analysis to determine whether a TIS is called for, every site plan review requires "mathematical analysis

of the transportation system” and therefore must analyze whether the development would increase VMT per capita under OAR 660-012-0210.

6. VMT per capita, in simple terms, is the number of vehicle trips multiplied by the distance traveled each trip, divided by the total population. Any development that adds new vehicle trips in the numerator of this calculation but does not also add population to the denominator will automatically increase VMT per capita. Since non-residential developments do not increase the city’s population, this means that the city is effectively prohibited from approving any non-residential development that triggers site plan review and would result in additional vehicle trips.

7. The Institute of Traffic Engineers (“ITE”) *Trip Generation Manual* is the most commonly used engineering reference for trip generation calculations in Oregon. Per the ITE *Trip Generation Manual*, any intensification of land use increases the number of vehicle trips unless mitigation measures are put into place to reduce trips. Because the city is effectively prohibited from approving any land use decision that would result in any new motor vehicle trips, every land use decision that intensifies land use within the Springfield Urban Growth Boundary (“UGB”), but does not add population to the City of Springfield, will be required to include mitigation measures to reduce the number of new motor vehicle trips.

8. Changing the site plan review requirements so that they do not include any mathematical analysis of the transportation system, in order to avoid triggering the requirements of OAR 660-012-0210, would negatively impact public safety and traffic operations. A mathematical analysis is required to assess traffic safety impacts and traffic operation needs for significant developments. For a proposed development that generates significant amounts of traffic to and from the development site, a TIS is the primary means to assess whether a proposed development will exceed any applicable traffic safety and operational standards, and then to determine what mitigating measures are required to mitigate those issues.

9. Mitigation measures to reduce VMT generated by development will increase the cost of development for a significant number of development proposals each year. As of November 1, 2022, the City of Springfield had received 12 complete applications for site plan review. Three of these applications were for residential or mixed-use residential development. Two of these applications did not include any intensification of land use or change of use. The remaining seven site plan applications involved an intensification of an existing land use or new infill development that could not be approved under OAR 660-012-0210 unless they added additional mitigation to reduce the new vehicle trips from the development


to zero. It is reasonable to expect, based on the 2022 applications so far, that a majority of development in Springfield that requires site plan review will require additional vehicle trip mitigation or will not be approvable once OAR 660-012-0210 takes effect, increasing the cost and ease of development in Springfield.

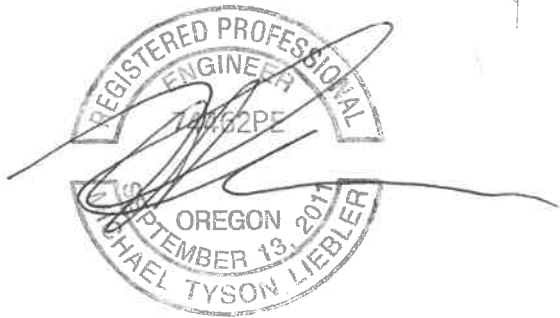
10. These rules will also negatively impact residential development on the outer edges of the Springfield UGB. Most of the vacant and partially vacant land available for residential development in Springfield is unannexed and located closer to the edges of the UGB than existing developed neighborhoods. The criteria for annexation include measuring the transportation impacts of the proposed annexation to ensure that the annexation appropriately mitigates the public cost of any impacts. Because mathematical analysis of the transportation system is required for annexation, annexation applications will be subject to the requirement in OAR 660-012-0210 to not increase VMT per capita. Residents who live in neighborhoods that are furthest from the city's geographic center will necessarily have to travel farther by vehicle to reach other locations within the community than residents who reside closer to the geographic center. Thus, the city will be prohibited from approving residential development where most developable residential property is located, unless the development provides enough mitigation to reduce the number of new vehicle trips to match development near the

geographic center of Springfield. This will increase the cost of new housing development in Springfield and worsen the present housing shortage.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 15th day of November, 2022.


Michael Liebler, P.E.



EXPIRES 12/31/24

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF SANDY
BELSON IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, Sandy Belson, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the Interim Planning Section Manager for the City of Springfield. Hired in April 2016 as the city's Comprehensive Planning Manager, I have overseen long-range planning for the city for the past six and a half years. I have a Bachelor of Science in Architecture from the University of Virginia and a Master of Community and Regional Planning from the University of Oregon. Since graduating with my master's degree in 1995, I have worked in local government planning in Oregon for more than 20 years, including serving on the Board of the Oregon City Planning Directors Association. As detailed below, I am concerned about the effects that the Climate-Friendly and Equitable Communities Rules ("CFEC Rules" or "Rules") will have on Springfield.

3. The City of Springfield and Lane County co-adopted *the City of Springfield 2035 Transportation System Plan* ("Springfield 2035 TSP") as an amendment to the Metropolitan Area General Plan ("Metro Plan") for application within the City of Springfield's planning jurisdiction. This co-adoption was done through the City of Springfield Ordinance No. 6314 and Lane County Ordinance No. PA 1303 on March 11, 2014.

4. In 2007, House Bill 3337 passed, requiring the cities of Eugene and Springfield to develop separate urban growth boundaries ("UGBs"). With separate UGBs, the State of Oregon's Transportation Planning Rule ("TPR") required that

Springfield and Eugene develop city-specific Transportation System Plans (“TSPs”). The Springfield 2035 TSP is the city’s first independent TSP since creating a separate UGB via Ordinance 6268 (adopted June 20, 2011).

5. The first goal of the Springfield 2035 TSP is to support an efficient, diverse, and environmentally sound transportation system through a set of comprehensive policies and implementation actions. Specifically, it reads:

Goal 1: Community development. Provide an efficient, sustainable, diverse, and environmentally sound transportation system that supports and enhances Springfield’s economy and land use patterns.

- Policy 1.1: Manage Springfield’s street, bike, pedestrian, rail, and transit system to facilitate economic growth of existing and future businesses in Springfield.
 - Action 1: When evaluating needed roadway improvements, consider the economic viability of existing commercial and industrial areas.

- Policy 1.2: Consider environmental impacts of the overall transportation system and strive to mitigate negative effects and enhance positive features.
 - Action 1: Strive to reduce vehicle-related greenhouse gas emissions and congestion through more sustainable street, bike, pedestrian, transit, and rail network design, location, and management.
 - Action 2: Coordinate the transportation network with new alternative energy infrastructure such as electric vehicle charging stations, natural gas, and hydrogen cell fueling stations.
- Policy 1.3: Provide a multi-modal transportation system that supports mixed-use areas, major employment centers, recreation, commercial, residential, and public developments, to reduce reliance on single-occupancy vehicles (“SOVs”).
- Policy 1.4: Strive to increase the percentage of bicycle and pedestrian system users by planning, designing,

and managing systems to support the needs of diverse populations and types of users, including meeting Americans with Disabilities Act (“ADA”) needs.

- Action 1: Create a network of bicycle and pedestrian routes and way-finding signage that guides users to destination points.

6. The goals of Springfield’s 2035 TSP mirror the goals of the CFEC Rules. Springfield agrees with the CFEC Rules’ goals, but the city is incredibly worried about how the Rules’ numerous requirements will play out on the ground.

7. One example of our concerns relates to an application involving the North Gateway expansion area. On December 5, 2016, the City Council adopted Ordinance 6361 to expand the UGB to add 257 acres of suitable employment land on 273 gross acres in the North Gateway and Mill Race expansion areas to meet Springfield’s established need for employment lands under Statewide Planning Goal 9 (Economic Development). Ordinance 6361 also amended the Springfield 2030 Comprehensive Plan to adopt an *Urbanization Element* to implement Goal 11 and *Economic Element* to implement Goal 9. Ordinance 6361 was acknowledged by the Land Conservation and Development Commission to comply with the Oregon Statewide Planning Goals on March 5, 2019.

8. The North Gateway UGB expansion area is 139.4 gross acres, including planned areas for rights of way, representing 132.1 acres of area suitable for development of employment uses. Ordinance 6361 applied Urban Holding Area – Employment (“UHA-E”) zoning to the North Gateway employment lands to protect these urbanizable lands from land division and incompatible interim development prior to annexation. *See* Springfield Development Code 3.2.905.

9. The UHA-E areas in North Gateway and the Mill Race will require comprehensive plan amendments, including TSP amendments, prior to their designation and zoning for urban employment use.

10. Other than ODOT rights of way for Interstate 5, there are no dedicated rights of way or existing streets in the North Gateway expansion area that connect the area to Springfield city limits to the south. There is currently no way to reach the North Gateway area via public streets in Springfield; the only access is via private easements or an approximately quarter mile section of Sprague Road that provides vehicle access via an overpass over I-5. Thus, any TSP amendments for the North Gateway area to provide motor vehicle access will require the City of Springfield to plan for an extension of the road network with new streets. The planning for a geographically expanded street network to serve employment areas may increase the vehicle miles traveled per capita because it increases the miles of

streets in the city's road network without adding to the projected population of Springfield.

11. The *Urbanization Element* of the *Springfield Comprehensive Plan* provides a pathway for development of the urban holding areas under either a city-initiated process or a developer-initiated process. Under either process, amendments to the TSP to provide a transportation network for the North Gateway area are included in the first step required.

12. Since adoption of Ordinance 6361, the City of Springfield has been working to complete planning studies for the UGB expansion areas that will result in the comprehensive plan amendments required to enable urban development of the North Gateway area and Mill Race area. Springfield has performed, or is in the process of performing, the following work related to the North Gateway area:

- Adding the UGB expansion areas to the City of Springfield's Natural Resource Study for wetland, riparian, and wildlife resources pursuant to Statewide Planning Goal 5. This work is funded by Technical Assistance Grants from the Department of Land Conservation and Development ("DLCD"), specifically TA-21-203 and TA-23-223. The Natural Resource Study is anticipated for adoption by the Springfield City Council in Spring 2023.

- Updating the Public Facilities and Services Plan (“PFSP”) to include provision of services to the UGB expansion area. This project is being conducted with support from the Lane Council of Governments (“LCOG”) through an Intergovernmental Agreement between Springfield and LCOG, and DLCD grant funding to LCOG via HA-23-201.
- Drafting low-impact developments standards for the UGB expansion areas to address potential groundwater supply impacts on development in these areas to implement Policy 51 in the *Urbanization Element*. This work is being conducted by the University of Oregon through an intergovernmental agreement between the city, Springfield Utility Board, and Rainbow Water District; the latter two agencies are the drinking water providers within the Springfield UGB.
- Developing an outline of the transportation planning and land use work needed to prepare the North Gateway UGB expansion area for future development. This was conducted by Kittleson & Associates Inc. (“Kittleson & Associates”) via a contract with Springfield dated August 25, 2020.

13. The contract with Kittleson & Associates provided the city with a high-level project plan that identifies work that needs to be done to prepare the North Gateway UGB expansion area for future development within the realms of

transportation planning and land use planning. This project plan, provided in a memorandum dated November 2021, includes potential approval pathways and associated timelines for any necessary plans or plan amendments needed to allow for full urbanization of the UGB expansion areas. The Kittleson & Associates contract work completed just prior to the release of the first complete draft of the CFEC Rules by DLCD staff in late 2021. The CFEC Rules will require the city to perform much different work than included in the Kittleson & Associates project plan and will require the city to create a new project plan for TSP amendments for the North Gateway area before moving forward. To put it simply, a tremendous amount of the work done by the city to move the area towards development has now been rendered useless by the CFEC Rules, or, at the very least, has to be substantially redone.

14. Furthermore, the Rules may prevent Springfield from being able to plan for transportation to serve the North Gateway area at all due to the limits on new street networks in the Rules. The CFEC Rules require the city to place projects that may increase vehicle miles traveled per capita at a lower priority on both the unconstrained and constrained project list, compared to projects that reduce vehicle miles traveled per capita. OAR 660-012-0170 to 0180. Additionally, the city cannot adopt any constrained project list that would result in

an increase in vehicle miles traveled per capita compared to the baseline condition. OAR 660-012-0180. There are no exceptions to these requirements for new street networks to serve existing undeveloped areas in a city's UGB. Thus, this restriction would apply to any TSP amendments adopted to facilitate urban development of the North Gateway area.

15. However, even if Springfield could find a way to plan for a transportation system in North Gateway that would meet the CFEC Rules' limitations, Springfield will not have the staff resources to perform this work for at least the next five years. The city currently employs one transportation planner at the Planner II level and has an open position for a senior transportation planner that we were unable to fill during our initial recruitment. Even with consultant resources anticipated to be provided by DLCD, the city's transportation planning staff will be tied up performing the minimum work necessary to meet the deadlines in the CFEC Rules for adopting new transportation system plan elements and Climate Friendly Area plans. Thus, the city will be unable to pursue additional transportation planning work for North Gateway. In addition, Springfield has not budgeted for funds to redo the work on the high-level project plan prepared by Kittleson & Associates to align with the new requirements under the CFEC Rules for Transportation System Plans. This means that it is highly unlikely for the North

Gateway UGB expansion area transportation planning work to be accomplished before 2030. With additional planning steps required after the TSP is adopted for North Gateway, work that may take up to five more years, Springfield may be unable to develop North Gateway with employment uses until at least 2035. This means Springfield will continue to have a consistent deficit of needed employment sites under Statewide Planning Goal 9.

16. The above is just one example of the numerous issues that the CFEC Rules have created for Springfield. If the CFEC Rules are implemented, the effects to Springfield will be irreparable and widespread. The ramifications of setting back or displacing our current planning efforts will be felt by our community for years and decades to come.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 9th day of November, 2022.



Sandy Belson

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF RAY YOUNG IN
SUPPORT OF PETITIONERS'
MOTION TO STAY ENFORCEMENT
PENDING JUDICIAL REVIEW

I, Ray Young, declare as follows:

1. I submit this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I have personal knowledge of the matters stated herein and, if called as a witness, could and would competently testify thereto.

2. I am the City Manager of the City of Troutdale, Oregon. I make this declaration in support of the Petitioners' Motion to Stay Enforcement of the Climate-Friendly and Equitable Communities Rules ("CFEC Rules" or "Rules") adopted by the Oregon Land Conservation and Development Commission.

3. A proposal to develop 94 units of affordable housing was recently submitted by a developer to the City of Troutdale for site development approval. The nature of the site plan required a variance request from existing on-site parking standards. At the hearing, representatives from the applicant stated that if their variance was not approved and the application were to be denied, they would simply wait until the CFEC Rules come into effect. One representative stated that a new application would then be filed with less parking than in the current application.

4. The developer applicant resists contributing to the cost of a pedestrian and bike path for its residents to cross a busy adjacent freight corridor. The city's ability to impose such a condition only arises in the context of the pending variance from parking standards and will be completely lost if the CFEC Rules govern an application, as further discussed below.

5. The City of Troutdale's parking standards for multi-family residential developments have been established with clear intent: to ensure that residents of

such complexes have adequate ability to park vehicles and to avoid the accumulation of vehicles parked on existing public streets. In this particular case, the subject property is adjacent to the city-owned Troutdale Police Community Center, which is a base of operations for the Multnomah County Sheriff's Office ("MCSO") patrol division. MCSO provides police service to the city as well as to surrounding incorporated cities and the rest of the county, from Multnomah Falls to Sauvie Island, from the city-owned building.

6. The street utilized by MCSO officers and other first responders when departing the facility is adjacent to the property that is proposed for development. Other city uses take place in the building, including municipal court proceedings, evening City Council, Planning Commission, and other committee meetings, and certain community events. It is a very busy area where parking is very important. Indeed, response times for MCSO deputies dispatched can be affected when the streets are congested and visibility is reduced by parked vehicles. Similarly, risk of vehicular collisions is increased. It is critical to Troutdale that this new project not exacerbate these problems.

7. Additionally, business owners in the area regularly appear in City Council meetings requesting that more, not less, parking be created by the city to serve their existing businesses. New businesses are opening in the area this year,

which can only exacerbate the parking issues. The proposed development threatens to occupy the existing parking spaces by failing to provide an adequate number of on-site spaces, and the CFEC Rules eliminate the city's ability to require them.

Absent the city being able to mandate adequate parking, our downtown merchants will be severely inhibited in their ability to attract business due to all the available on-street parking being consumed by development residents.

8. The developer's arguments in the current land use application claim that excess parking from their development can simply be accommodated by on-street parking. With the implementation of the CFEC Rules, the developer has no need nor incentive to provide any on-site parking and could suggest that all of their parking can be handled on city streets, when the existing conditions already demonstrate the existing parking resources are insufficient for current needs.

9. Under the CFEC Rules, the City of Troutdale will have no recourse to fairly evaluate the unique conditions of the property and its surrounding land uses. Consideration of adjacent property impacts have long been a cornerstone for evaluating site development plans to ensure harmonious development that supports the public interests. While the city acknowledges the need to provide affordable, equitable, and climate-friendly housing, the CFEC Rules supersede any local

wisdom that could lead to a more compatible project. The Rules unreasonably burden the whole community.

10. The effects on other businesses in the area, police services, and other residents of more vehicles parking on the street will not be reparable if parking is not mandated during development, and a statute—ORS 227.178(3)—prohibits the city from retroactively applying parking standards to any proposed development if the CFEC Rules apply at the time of filing.

11. Further, Troutdale is a suburban community, with its designated Town Center Area located along a steep hillside. The city's unique geography and microclimate, involving strong icy winds during winter months, are not conducive to full mobility options, with many residents unable and unlikely to utilize other forms of transportation besides their own private motor vehicles. Immediate implementation of the CFEC Rules will harm the City of Troutdale and its residents, including the Troutdale community's ability to transact business locally in inclement weather and the Troutdale business community's ability to draw customers from non-walkable distances, which means a real loss of income and potential closure of businesses.

12. In fact, transit service in the community and in the Town Center Area is limited and may be further curtailed. In recent weeks, TriMet released its

“Forward Together” long range service plan, which shows a major bus route being removed from the city (Line 81), one that is immediately adjacent to the proposed development site.

13. Previously, another bus line (Line 80) has been threatened to be cut as well, as TriMet contends with its operational finance deficiencies.

14. Reduction or elimination of parking standards for multi-family housing in the CFEC Rules is predicated on the notion that regular transit service is adequately available and of actual service to the community. The Line 81 service currently does not run on the weekends, despite it being a vital artery for current and future residents to connect to job centers, including the Troutdale-Reynolds Industrial Park where Amazon, FedEx, and other major employers employ thousands of workers.

15. Transit is also insufficient to connect with Mount Hood Community College, Reynolds High School, and Gresham Transit Center. Service on this route actually increased during the pandemic, and yet the city is nearly powerless in its ability to compel the transit agency to retain (or increase) this service.

16. Implementation of the CFEC Rules on January 1, 2023 exacerbates a complicated situation that affects public safety response and is overly presumptive of the ability and willingness for transit to adequately serve our community. With

an increase in crime and a recommendation to eliminate a key transit service, the city sees no evidence that immediate implementation of the Rules will improve our quality of life or contribute positively to the well-intentioned goals of the CFEC Rules. Local knowledge and creativity should be allowed to contribute.

17. These are only some of the ways that the CFEC Rules will result in irreparable harm. Given the breadth of the Rules, there will be widespread impacts throughout the community of Troutdale. The impacts will not only affect our community immediately, but they will also change the course of Troutdale and have lasting impacts for years or decades.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 13th day of November, 2022.



Ray Young

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITY OF CORNELIUS; CITY OF
FOREST GROVE; CITY OF
GRANTS PASS; CITY OF HAPPY
VALLEY; CITY OF HILLSBORO;
CITY OF KEIZER; CITY OF
MEDFORD; CITY OF OREGON
CITY; CITY OF SHERWOOD;
CITY OF SPRINGFIELD; CITY OF
TROUTDALE; CITY OF
TUALATIN; CITY OF WOOD
VILLAGE; and MARION
COUNTY,

Petitioners,

v.

DEPARTMENT OF LAND
CONSERVATION AND
DEVELOPMENT; and THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION,

Respondents.

CA A180037

DECLARATION OF DAVID O.
BECHTOLD IN SUPPORT OF
PETITIONERS' MOTION TO STAY
ENFORCEMENT PENDING
JUDICIAL REVIEW

I, David O. Bechtold, declare as follows:

1. I am lead counsel for Petitioners in the above-captioned matter and make this declaration in support of Petitioners' Motion to Stay Enforcement Pending Judicial Review. I make this declaration based upon my own personal knowledge of the facts and information herein.

2. Attached as **Exhibit A** to this declaration is a true and complete copy of the Order Granting Stay issued by the Office of the Appellate Commissioner in Court of Appeals Case No. A172546, *Herban Industries OR, LLC v. Oregon Liquor Control Commissioner*, dated November 14, 2019.

3. Attached as **Exhibit B** to this declaration is a true and complete copy of the Order Granting Stay issued by the Office of the Appellate Commissioner in Court of Appeals Case No. A172417 (control), *Vapor Technology Association v. Oregon Health Authority*, dated November 14, 2019.

4. Attached as **Exhibit C** to this declaration is a true and complete copy of the Department of Land Conservation and Development's Notice of Proposed Rulemaking Including Statement of Need & Fiscal Impact for the Climate-Friendly and Equitable Community Rules ("CFEC Rules"), filed with the Secretary of State on February 24, 2022.

5. Attached as **Exhibit D** to this declaration is a true and complete copy of the Department of Land Conservation and Development's Permanent Administrative Order for the CFEC Rules, filed with the Secretary of State on August 17, 2022.

6. As counsel for Petitioners, I have asked my client contacts whether they have received any forms of notice from the Land Conservation and

Development Commission related to the CFEC Rules which purports to comply with Measure 56, which has been codified at ORS 197.047. None of my clients responded that they were aware of any such notices being sent.

7. I have reviewed the Proposed Notice of Rulemaking for the CFEC Rules and the Permanent Administrative Order adopting the CFEC Rules and have determined that for approximately 72 of the CFEC Rules, the adopted rules list different authorizing authorities than were provided during the Proposed Notice of Rulemaking. Approximately 70 of the rules provided only the Commission's general rulemaking authority in the Notice, but then included more substantive authorities in the Permanent Order. Those 72 instances are displayed in the following table.

CFEC Rule	Authorities in Notice	Authorities in Permanent Order
OAR 660-008-0010	ORS 197.040, ORS 197.295 - 197.314, ORS 197.475 - 197.490	ORS 197.040, ORS 197.296 - 197.314, 197.475 - 197.490, ORS 197.012, ORS 197.286
OAR 660-012-0011	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0012	ORS 197.040	ORS 197.040, ORS 197.712, ORS 197.296, ORS 455.417
OAR 660-012-0035	ORS 197.040, ORS 197.245, ORS 195.025, ORS 197.040, ORS 197.230, ORS 197.245, ORS 197.712, ORS, 197.717	ORS 197.040, ORS 197.245, ORS 195.025, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717, ORS, 197.012
OAR 660-012-0045	ORS 197.040	ORS 197.040, ORS 197.012
OAR 660-012-0100	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.180, ORS 197.200, ORS 197.274, ORS 197.712
OAR 660-012-0105	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0110	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712

CFEC Rule	Authorities in Notice	Authorities in Permanent Order
OAR 660-012-0115	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0120	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0125	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0130	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0135	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0140	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.274, ORS 197.301, ORS 197.712
OAR 660-012-0145	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0150	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.180, ORS 197.712
OAR 660-012-0155	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.180, ORS 197.712, ORS 468A.205
OAR 660-012-0160	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.712, ORS 486A.205
OAR 660-012-0170	ORS 197.040	ORS 197.040, ORS 197.899, ORS 197.012, ORS 197.712, ORS 468A.205
OAR 660-012-0180	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.712, ORS 468A.205
OAR 660-012-0190	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.200, ORS 197.712
OAR 660-012-0200	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0210	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0215	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.180, ORS 197.712
OAR 660-012-0300	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0310	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.615, ORS 197.646, ORS 197.712
OAR 660-012-0315	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0320	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712

CFEC Rule	Authorities in Notice	Authorities in Permanent Order
OAR 660-012-0325	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.610-197.625, ORS 197.712, ORS 197.717
OAR 660-012-0330	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0340	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.296, ORS 197.712
OAR 660-012-0350	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 197.798
OAR 660-012-0360	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0400	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0405	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0410	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 455.417
OAR 660-012-0415	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0420	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0425	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0430	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 329A.250, ORS 443.400, ORS 456.250
OAR 660-012-0435	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0440	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0445	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0450	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0500	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0505	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0510	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 366.514
OAR 660-012-0520	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0600	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0605	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0610	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712

CFEC Rule	Authorities in Notice	Authorities in Permanent Order
OAR 660-012-0620	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0630	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0700	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0705	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0710	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0720	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0800	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0805	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0810	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 368.039
OAR 660-012-0820	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712
OAR 660-012-0830	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 468A.205
OAR 660-012-0900	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.301, ORS 197.712, ORS 468A.205
OAR 660-012-0905	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.712, ORS 468A.205
OAR 660-012-0910	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.712, ORS 468A.205
OAR 660-012-0915	ORS 197.040	ORS 197.040, ORS 197.012, ORS 197.615, ORS 197.712
OAR 660-012-0920	ORS 197.040	ORS 197.040, ORS 183.484, ORS 197.012, ORS 197.319-ORS 197.335, ORS 197.712
OAR 660-044-0015	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 468A.205
OAR 660-044-0100	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 468A.205
OAR 660-044-0110	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 468A.205
OAR 660-044-0120	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 468A.205
OAR 660-044-0130	ORS 197.040	ORS 197.040, ORS 184.899, ORS 197.012, ORS 197.615, ORS 468A.205

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this 18th day of November, 2022.

s/ David O. Bechtold

David O. Bechtold

Exhibit A

IN THE COURT OF APPEALS OF THE STATE OF OREGON

HERBAN INDUSTRIES OR, LLC,
an Oregon limited liability company, dba Dyme Distribution,
Petitioner,

v.

OREGON LIQUOR CONTROL COMMISSION,
Respondent.

Court of Appeals No. A172546

ORDER GRANTING STAY

Petitioner seeks judicial review of temporary administrative rules adopted by the Oregon Liquor Control Commission (OLCC): OAR 845-025-2805 and OAR 845-025-5760(5) and (6). Petitioner moves to stay enforcement, pending judicial review, of OAR 845-025-2805, a rule that, among other things, prohibits the manufacture and sale of cannabis vapor products that contain flavor or "non-marijuana terpenes." Petitioner asserts that, absent a stay, "OAR 845-025-2805 will force financial losses that will be immeasurable and will threaten permanent closure of its business." OLCC opposes the request for a stay. As explained below, the motion is granted.

OAR 845-025-2805 was adopted by OLCC as part of its implementation of the Governor's Executive Order 19-09. Petitioner holds a recreational marijuana wholesaler license and is the sole distributor of the "Winberry" or "Winberry Farms" brand of flavored cannabis vape cartridges. According to petitioners, "Winberry Farms branded vape cartridges contain butane hash oil * * * distillate blended with a proprietary mix of natural terpenes that replicate the taste and smell of terpenes found in cannabis." Because the cartridges contain "non-marijuana terpenes," under OAR 845-025-2805, petitioner is prohibited from manufacturing the cartridges and also from distributing and selling cartridges that were produced prior to October 15, 2019, the effective date of the rule.

As explained in *Northwest Title Loans, LLC v. Division of Finance*, 180 Or App 1, 10, 42 P3d 313 (2002), this court has authority to stay enforcement of an administrative rule pending completion of judicial review.¹ In determining whether to exercise the

¹ Although *Northwest Title Loans* was vacated as moot, the court continues to refer to the portions of that decision that remain persuasive. *Lovelace v. Board of Parole and Post-Prison Supervision*, 183 Or App 283, 288 n 3, 51 P3d 1269 (2002).

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authority to grant a stay pending completion of the rule-challenge proceedings, the court considers the likelihood that petitioner will prevail on judicial review,² the likelihood of irreparable harm to petitioner in the absence of a stay, and the likelihood of harm to the public if a stay is granted. See *id.* at 13 & n 7 (stating that a stay will not be granted in the absence of a showing that failure to grant a stay will result in irreparable harm; suggesting that, in evaluating whether a stay should be granted in judicial review proceeding under ORS 183.400, the court could require a petitioner to meet requirements analogous to those imposed in ORS 183.482). In this case, the court concludes that those factors weigh in favor of granting a stay pending judicial review.

The court begins by considering petitioner's likelihood of success on judicial review. In conducting judicial review of an administrative rule under ORS 183.400, the court is limited to an examination of the rule itself, the statutory provisions authorizing the rule, and copies of documents necessary to demonstrate compliance with applicable rulemaking procedures. ORS 183.400(3). The court will declare a rule invalid only if it determines that the rule "[v]iolates constitutional provisions; * * * [e]xceeds the statutory authority of the agency; or * * * [w]as adopted without compliance with applicable rulemaking procedures." Here, petitioner asserts that OAR 845-025-2805 is invalid, "primarily because * * * [OLCC] failed to substantially comply with the rulemaking procedures necessary to justify a temporary rule." Specifically, petitioner argues that OLCC did not comply with the requirements of ORS 183.335(5). Petitioner also asserts that the rule is invalid because it lacks a rational basis and violates free-speech rights.

In general, ORS 183.335 sets forth rulemaking procedures that an agency must use prior to the adoption of a rule. Those include, among other things, a public notice of rulemaking, an opportunity for interested persons to submit data or comments on the proposed rule, and opportunities for oral hearings. However, under ORS 183.335(5), an agency may adopt a rule without prior notice or hearing or with abbreviated notice and hearing,

"if the agency prepares:

"(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

² Petitioner submits that its showing of irreparable harm alone is sufficient for this court to grant a stay. It also observes that it has raised several "colorable claims of error." Although, in considering a stay pending judicial review in a contested case, the court evaluates whether a petitioner has demonstrated a "colorable claim of error," see ORS 183.482(3)(a)(B), in considering a motion to stay in a rule challenge under ORS 183.400, the court evaluates, more generally, a petitioner's likelihood of success on review.

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"(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

"(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

"(d) A list of the principle documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection * * *."

Because, here, the agency adopted OAR 845-025-2805 as a temporary rule without prior notice or hearings, it was required to comply with ORS 183.335(5).

OLCC's statement of need and justification of the temporary rule is as follows:

"NEED FOR THE RULE(S):

"On October 4, 2019 the Governor issued Executive Order 19-09 which directs the Oregon Liquor Control Commission to immediately adopt temporary rules banning the sale and manufacture of all flavored vaping products for 180 days.

"JUSTIFICATION OF TEMPORARY FILING:

"It is imperative that the Oregon Liquor Control Commission take actions necessary to protect the health and safety of Oregonians as directed by the Governor in Executive Order 19-09. Nationally there is an ongoing vaping public health crises, with an alarming outbreak in recent months of lung injuries among previously healthy individuals who have used vaping products. According to the [Centers for Disease Control], as of October 10, 2019, there have been more than 1,200 vaping-related lung injury cases and 28 deaths nationally, with nine vaping related injuries and two deaths in Oregon. The Oregon Health Authority has issued a public health advisory, warning all Oregonians not to use vaping products or e-cigarettes, but it is imperative for the State to take evidence based action immediately to protect Oregonians, especially Oregon's youth, from the harms associated with vaping products.

"No specific types of e-cigarettes, vaping devices, or liquids have been conclusively identified as a cause of the illnesses at this time; the FDA is testing vaping products from cases around the United States to determine which specific products or ingredients may be the cause. Until a cause has been identified, the Commission must act promptly, in accordance with the Governor's Executive Order, to protect Oregonians,

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and failure to act promptly will result in serious prejudice to the public interest."

According to petitioner, that statement fails to comply with the requirements of ORS 183.335. Petitioner argues, in part, that OLCC failed to include a statement of the need for the rule and how the rule is intended to meet the need as required by ORS 183.335(5)(c). OLCC responds that it met the requirements of ORS 183.335(5): It identified the Governor's executive order as the need for the rule and it is apparent on its face how the rule meets that need because the rule does what the Governor ordered. OLCC also points to Executive Order 19-09, itself, as setting forth the need for the temporary rule.

As the court has explained,

"[r]eview of the adequacy of a 'statement of need' for the adoption of a temporary rule is made in the context of whether the agency substantially complied with rulemaking *procedures*. Under ORS 183.335(5)(c), the agency is required to articulate an explanation for the need to adopt a temporary rule. The statement of 'need' for a temporary rule is identical to that required for permanent rulemaking. ORS 183.335(2)(b)(C) ('need' statement consists of a 'statement of the need for the rule and a statement of how the rule is intended to meet the need'). In reviewing the adequacy of an agency's statement of need, it is not the function of a reviewing court to assess the substance of the agency's asserted 'need' for * * * a rule. Rather, the 'need' contemplated by that statute is 'a need that the rule-proposing agency *perceives*.'"

Vier ex rel Rory v. SOSCF, 159 Or App 369, 376, 997 P2d 425 (1999) (emphases in original). Thus, where an agency perceives a need for rulemaking, it need only adequately explain that perception in its statement of need. *Id.*

Petitioner acknowledges that standard; in its view, however, OLCC has failed to articulate an explanation of what the need for the rule is or how the rule is intended to meet that need. It is not clear to the court that a statement of need that only identifies the Governor's order "direct[ing OLCC] to immediately adopt temporary rules banning the sale and manufacture of all flavored vaping products for 180 days" is a sufficient explanation of the agency's perception of the need for the rule. It is even less clear that it is sufficient for the agency to fail to include "a statement of how the rule is intended to meet the need," ORS 183.335(5)(c), because "it is apparent on its face how the rule meets" the need. ORS 183.335(5)(c) expressly requires that a temporary rule include a statement of how the rule meets the need identified by the agency, but no such statement is included in OAR 845-025-2805. Thus, although OLCC makes persuasive arguments in support of its view that the rule will be held valid on judicial review, the court is nonetheless persuaded that petitioner has *some* likelihood of success.

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With respect to the likelihood of irreparable harm in the absence of a stay, petitioner explains that enforcement of the rule is having a catastrophic effect on its business. See *Bergerson v. Salem-Keizer School Dist.*, 185 Or App 649, 660, 60 P3d 1126 (2003) (irreparable harm is one for which a party cannot receive a reasonable or complete remedy in law). Sales of its Winberry brand flavored vape cartridges represent more than 80 percent of petitioner's monthly revenue. Because OAR 845-025-2805 prohibits the sale of that product, petitioner is losing more than 80 percent of its monthly revenue and, in the absence of those revenues, "cannot sustain [its] workforce of over 30 farmers, drivers, packagers and sales associates." It asserts that, if enforcement of the rule is not stayed, it "is likely to lose all seven members of its professional sales force, and will be forced to consider laying off a total of 50 [percent] of its workforce statewide." In addition, according to petitioner, its relationships with OLCC-licensed recreational marijuana retailers are being damaged by enforcement of the rule. Retailers have demanded that petitioner buy back its product, which it cannot afford to do. Similarly, petitioner's relationships with its suppliers is being damaged because petitioner is unable to pay its accounts with those suppliers. In the absence of a stay, petitioner asserts that it may be "forced out of business entirely." OLCC does not dispute petitioner's assertions relating to the harms that it faces, nor does it dispute that that harm is irreparable. The court is persuaded that petitioner has demonstrated that irreparable harm to it is likely to result unless enforcement of the rule is stayed.

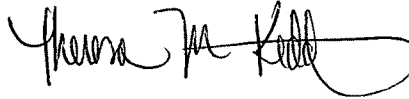
OLCC asserts, however, that a stay will likely result in harm to the public. In particular, OLCC points out that the vaping-related illnesses that the rule is aimed at addressing are serious; as of the date that OLCC's response was filed, 1,888 cases of the illness had been reported nationwide and 37 people--two in Oregon--had died. According to the state, petitioner's losses do "not outweigh the public interest in safety if in fact the products are causing serious injury." The court agrees that, if there was any showing that the products were causing injury to the public, that would weigh strongly against granting a stay. The problem with OLCC's argument is that, as OLCC itself acknowledged in its statement of justification for the rule, it adopted the rule without knowing what was causing the lung injuries at issue. It specifically stated that no type of "e-cigarette, vaping devices, or liquids" had "been conclusively identified as a cause of the illnesses at this time." And, at the time it filed its response to the motion to stay, OLCC remained unable to tie the lung injury cases to the type of flavored vape cartridges at issue. Indeed, OLCC, in its response, states that "[p]ublic health professionals across the country are working to determine the cause of the outbreak and how to stop it." In the absence of any evidence connecting the sale of cannabis vapor products *that contain flavor or "non-marijuana terpenes"* to the lung injuries, the court is not convinced that there is a risk of harm to the public if enforcement of the rule is stayed.³

³ As is clear from the Governor's Executive Order 19-09, the statement of justification for the temporary rule, and the state's response, the available information relating to public risk may be expected to develop as public health officials continue their work in pinpointing the causes of the injuries and how to prevent those injuries.

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In sum, the court has considered petitioner's likelihood of success on judicial review, the likelihood of irreparable harm to petitioner absent a stay, and the likelihood of harm to the public if a stay is granted, and concludes that those factors weigh in favor of granting a stay. Accordingly, petitioner's motion is granted. Enforcement of OAR 845-025-2805 is stayed pending judicial review or further order of the court.



THERESA M. KIDD
APPELLATE COMMISSIONER
11/14/2019 3:32 PM

c: Kevin J Jacoby
Benjamin Gutman
Andrew C DeWeese
Michael A Casper

ej

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Exhibit B

IN THE COURT OF APPEALS OF THE STATE OF OREGON

VAPOR TECHNOLOGY ASSOCIATION; VAPE CRUSADERS PREMIUM E-LIQUID,
LLC; and SMOKELESS SOLUTIONS, LLC,
Petitioners,

v.

OREGON HEALTH AUTHORITY,
Respondent.

Court of Appeals No. A172417 (Control)

NO MOKE DADDY, LLC, dba Division Vapor, an Oregon limited liability company; and
PAUL BATES, an individual,
Petitioners,

v.

OREGON HEALTH AUTHORITY; KATE BROWN, in her official capacity as Governor
of Oregon and as Chief Executive of the Oregon Health Authority; and PATRICK
ALLEN, in his official capacity as Director of the Oregon Health Authority,
Respondents.

Court of Appeals No. A172419

ORDER GRANTING STAY

Petitioners in this consolidated case seek judicial review of OAR 333-015-1000, a temporary administrative rule adopted by the Oregon Health Authority (OHA).¹ See ORS 183.400(1) ("The validity of any rule may be determined upon a petition by any person in the Court of Appeals in the manner provided for review of orders in contested cases."). That rule provides that, "[o]n or after October 15, 2019, a retailer may not sell

¹ Petitioners filed separate petitions for judicial review and, with those petitions, also filed motions to stay. On October 17, 2019, on its own motion, the court entered an order consolidating the petitions for judicial review and, in discussing the arguments made in the motions to stay, the court refers to petitioners collectively.

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or offer for sale a vapor product containing a flavor, to a consumer in Oregon." OAR 333-015-1000(2). Petitioners move to stay enforcement of the rule pending judicial review.

The challenged rule was adopted to implement the Governor's Executive Order 19-09. According to the agency in its statement justifying the temporary rule, the Centers for Disease Control (CDC) have stated that, "as of October 10, 2019, there have been more than 1,200 vaping-related lung injury cases and 26 deaths nationally, with nine vaping-related injuries and two deaths in Oregon." The agency further stated that "[n]o specific types of e-cigarettes, vaping devices, or liquids have been conclusively identified as a cause of illness at this time; the [U.S. Food and Drug Administration] is testing vaping products from cases around the United States to determine which specific products or ingredients may be the cause." However, "[u]ntil a cause is identified," the OHA determined that "it must act promptly" to protect Oregonians.

As noted, the challenged rule provides that "a retailer may not sell or offer for sale a vapor product containing a flavor, to an Oregon consumer." OAR 333-015-1000(2). A retailer includes "any person who sells or offers for sale vapor products containing a flavor to consumers," except that the term does not include "a person licensed by the Oregon Liquor Control Commission under ORS 475B.105." OAR 333-015-1000(1)(d). The rule defines flavor as "an artificial or naturally-occurring substance that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary individual either prior to or during the inhalation of the product, including, but not limited to, any taste or smell relating to chocolate, coffee, cocoa, menthol, mint, wintergreen, vanilla, honey, coconut, licorice, nuts, fruit, any candy, dessert, alcoholic or non-alcoholic beverage, herb, or spice or any concept flavor." OAR 333-015-1000(1)(b). The rule provides that, for purposes of determining whether a vapor product contains a flavor "a public statement or claim, whether express or implied" that the product contains a flavor by a retailer, manufacturer "or any person authorized or permitted by the manufacturer or retailer to make or disseminate a public statement" will be considered "presumptive evidence that the vapor product contains a flavor." OAR 333-015-1000(3).

As explained in *Northwest Title Loans, LLC v. Division of Finance*, 180 Or App 1, 10, 42 P3d 313 (2002), this court has authority to stay enforcement of an administrative rule pending completion of judicial review.² In determining whether to exercise its authority to grant a stay pending completion of rule-challenge proceedings, the court considers the likelihood that a petitioner will prevail on judicial review, the likelihood of

² As the court has further explained, although *Northwest Title Loans* was vacated as moot, the court continues to refer to the portions of that decision that remain persuasive. *Lovelace v. Board of Parole and Post-Prison Supervision*, 183 Or App 283, 288 n 3, 51 P3d 1269 (2002).

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irreparable harm to the petitioner absent a stay, and the likelihood of harm to the public if a stay is granted.³ See *id.* at 13 & n 7 (stating that a stay will not be granted absent a showing that failure to grant a stay will result in irreparable harm; suggesting that, in evaluating whether a stay should be granted in judicial review proceedings under ORS 183.400, the court could require a petitioner to meet requirements analogous to those imposed in ORS 183.482). In this case, as explained below, having considered those factors, the court concludes that it is appropriate to stay enforcement of OAR 333-015-1000, pending judicial review.

The court begins with petitioners' likelihood of success on judicial review. In a rule challenge pursuant to ORS 183.400, the court may examine the rule under review, the statutory provisions authorizing the rule, and copies of all documents necessary to demonstrate compliance with applicable rulemaking procedures. ORS 183.400(3). And the court may declare the rule invalid only if it determines that the rule "[v]iolates constitutional provisions; * * * "[e]xceeds the statutory authority of the agency; or * * * [w]as adopted without compliance with applicable rulemaking procedures." Here, petitioners argue that the rule is invalid for all three of those reasons. The court agrees that petitioners are likely to prevail based on their argument that OAR 333-015-1000 exceeds OHA's statutory authority. Therefore, the court does not address the parties' remaining arguments relating to the validity of the rule.

OHA identified five statutes as providing it with the authority to adopt OAR 333-015-1000: ORS 183.360, ORS 413.042, ORS 431.110, ORS 431.141, and ORS 431A.010. According to petitioners, however, none of those statutes provides OHA with the statutory authority to adopt the rule. In response, OHA does not dispute that neither ORS 183.360,⁴ ORS 413.042,⁵ ORS 431A.010,⁶ nor ORS 431.141⁷ independently

³ In their motions to stay, petitioners Vapor Technology Association, Vape Crusaders Premium E-Liquid, LLC, and Smokeless Solutions, LLC, suggest that they may be required to make a showing of a "colorable claim of error." Although, in considering a stay pending judicial review in a contested case, the court evaluates whether a petitioner has demonstrated a "colorable claim of error," see ORS 183.482(3)(a)(B), when considering a motion to stay in a rule challenge under ORS 183.400, the court evaluates, more generally, a petitioner's likelihood of success on review.

⁴ ORS 183.360 provides for the publication of adopted administrative rules.

⁵ ORS 413.042 provides, "In accordance with applicable provisions of ORS chapter 183, the Director of the Oregon Health Authority may adopt rules necessary for the administration of the laws that the Oregon Health Authority is charged with administering."

⁶ ORS 431A.010 empowers OHA to enforce public health laws.

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provide it with the authority to adopt the rule. According to OHA, the Governor's Executive Order 19-09, standing alone, is a sufficient source of authority for its adoption of the rule. Furthermore, OHA argues, even if the executive order were not a source of authority, ORS 431.110 provides authority for the rule.

The court begins by addressing ORS 431.110, which sets forth the general powers of OHA. In relevant part, it provides that OHA shall "[h]ave direct supervision of all matters relating to the preservation of life and health of the people of this state." ORS 431.110(1). Petitioners assert that "supervision" does not mean power to adopt regulations. Indeed, according to petitioners, had the legislature intended, within the statute, to provide OHA with the authority to enact regulations pertaining to "all matters relating to the preservation of life and health of the people of the state," it would have expressly said so within the statute. Given that, in ORS 413.042, the legislature expressly gave OHA more limited rule-making authority (the power to "adopt rules necessary for the administration of the laws that [OHA] is charged with administering"), petitioners urge that ORS 431.110 cannot provide a valid statutory basis for the rule. Indeed, they point out that to understand ORS 431.110 to provide OHA with such authority would mean that the legislature "completely * * * delegated away its own legislative power--and did so *sub silentio*."⁸ OHA, for its part, concedes that, in general, supervisory power "may not include the power to adopt regulations in the interest of public health." However, it asserts that, "where the state is threatened by an unanticipated and acute public health crises and fast action is required," the supervisory authority provided by the statute does include the power to adopt the regulation. Petitioners' argument that the statute does not provide OHA with authority to adopt the rule in question is persuasive.

When evaluating whether an agency has statutory authority to adopt a rule, the court examines the statute in question to determine legislative intent and, in doing so, uses familiar rules of statutory construction, examining the text and context of the

⁷ ORS 431.141 requires OHA to establish "foundational programs through which the authority and local public health authorities administer public services in this state."

⁸ Furthermore, according to petitioners, if that statute were understood to provide a valid basis for OHA to adopt OAR 333-015-1000 it would provide OHA with almost unlimited power to ban products. In petitioners' view,

"it would mean that OHA, under the standard of enacting rules related to the 'health of the people of the state,' could ban any product it believed created a public-health issue. A few come readily to mind: non-electric vehicles (childhood asthma), aluminum foil (Alzheimer's), coffee (cysts and gout), cell phones (brain cancer), alcohol (liver disease), salt (blood pressure), butter (stroke and heart attack), and margarine (heart disease)."

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relevant statute and, if useful to the analysis, pertinent legislative history. *Assn. of Acupuncture v. Bd. of Chiropractic Examiners*, 260 Or App 676, 678, 320 P3d 575 (2014). Here, ORS 431.110(1) provides for OHA to have "supervision" of matters "relating to the preservation of life and health" of the people of Oregon. The plain meaning of that word does not appear to include the power to enact any and all regulations. And, indeed, the statute, in a later subsection, specifically provides that OHA shall have "full power in the control of communicable diseases." ORS 431.110(7). That demonstrates that, when the legislature intended to grant expansive power to the agency, it expressly stated so within the statute.

As noted, OHA nonetheless asserts that it has the authority to adopt the regulation by way of the executive order alone. The court first observes that an executive order may not, alone, provide an executive agency with rulemaking authority. Instead, rulemaking authority must be properly delegated by statute. See ORS 183.400(4)(b) (a rule is invalid if it exceeds the agency's "statutory" authority). Indeed, as petitioners note, OHA cites no authority for that proposition. However, OHA asserts that the legislature expressly delegated authority to the Governor to address a public threat and the Governor may exercise that power by ordering the agency to adopt a temporary rule like the one at issue here. In support of that contention, OHA cites ORS 431A.015. See ORS 413A.015 (providing for the authority of Public Health Director). In response, petitioners point out that ORS 431A.015 was not cited in the rule as part of the agency's authority to adopt the rule or in the executive order. See ORS 183.335(5)(b) (a temporary rule must include a citation of the statutory or other legal authority relied upon and bearing upon promulgation of the rule). Furthermore, they explain that, in any event, ORS 431A.015 does not authorize OAR 333-015-1000. For the reasons set forth in petitioners' reply, OHA is unlikely to convince the court that Executive Order 19-09, even considered with ORS 431A.015, provides sufficient statutory authorization for the rule.

In light of the foregoing, the court concludes that petitioners have a strong likelihood of success in their challenge to OAR 333-015-1000 pursuant to ORS 183.400 and, therefore, that consideration weighs in favor of granting a stay.

The court next examines the likelihood of irreparable harm to petitioners in the absence of a stay. Irreparable injury is one for which a party cannot receive a reasonable or complete remedy in law. See *Bergerson v. Salem-Keizer School Dist.*, 185 Or App 649, 660, 60 P3d 1126 (2003). Here, petitioners assert that enforcement of the rule is "an extinction-level event that cannot be repaired." According to petitioners, the harm from the rule will be immediate and devastating: If the rule is enforced, they will lose their businesses entirely within weeks, including all the goodwill they have built during their time in business. Their employees will lose their jobs. In addition, one petitioner explains, if they are forced to close their shops, the businesses will lose their leases and, potentially, be on the hook for tens of thousands of dollars in rent that they do not have. Indeed, petitioners assert that enforcement of the rule will cause the entire industry in Oregon to be destroyed. OHA does not contest that enforcement of the rule

ORDER GRANTING STAY

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
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will cause petitioners irreparable harm. The court concludes that petitioners have shown that enforcement of the rule will cause them irreparable harm. Therefore, this factor weighs in favor of granting a stay.

With respect to harm to the public, OHA asserts that this factor weighs in favor of denying a stay pending judicial review. According to OHA, as of the filing of its response, nearly 1500 cases of vaping-related lung injuries have been reported across the country and 33 people have died. They contend that "public health professionals across the country are working to determine the cause of the outbreak and how to stop it" and, in the meantime, the court should not stay the temporary rule. Petitioners acknowledge that "laudable goals may underlie" the rule. Nonetheless, they assert that, not only would a stay *not* present a significant risk of harm to the public, denial of a stay would be harmful to "the very individuals the ban is designed to protect: Oregon citizens." The court agrees with petitioners.

In its justification for the temporary rule, OHA acknowledged that the cause of the lung injuries was unknown and that, at that time, no specific types of "e-cigarettes, vaping devices, or liquids" had been identified as causing the illnesses. As it states in its response to the motions to stay, public health professionals have been working to identify the cause of the illnesses. However, as all of the parties acknowledge, the majority of the lung-injury cases involved products containing THC, not the nicotine vaping products that are the subject of the ban.⁹ And, as petitioners point out, there has been no evidence presented to connect the use of flavors in vaping products to a risk of injury. Thus, a rule that prohibits the sale of flavored vaping products, which have not been shown to cause the illness OHA is attempting to address, does not appear strongly connected to the public harm in question. Indeed, given that the cause of the illness is unknown, it would be extremely speculative to say that any risk of harm to the public would result from granting a stay.

Further, petitioners point out that harm to the public may result from denying a stay. In particular, they contend that flavored vaping products assist smokers in transitioning away from combustible cigarettes and that scientific studies have consistently demonstrated that vaping products are less harmful than cigarettes. Indeed, in a declaration, one of the owners of Vape Crusaders states that, if they are unable to obtain flavored vaping products prohibited by the rule, some of the business's customers have said they will return to smoking combustible cigarettes and others have

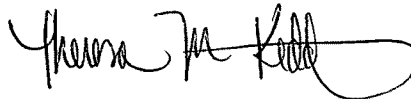
⁹ Indeed, petitioners point out that, since OHA's surreply was filed, "the CDC has released guidance stating that it has likely identified the cause of the" lung injuries. It "now appears that [those] injuries have been cause by vitamin E acetate occurring in 'homemade' or black market THC products." In support of that contention, petitioners cite to an article from the CDC: *Centers for Disease Control and Prevention, Smoking and Tobacco Use: Outbreak of Lung Injury Associated with E-cigarette Use, or Vaping* (Nov 8, 2019), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html#what-is-new (accessed Nov 14, 2019).

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said they will seek out the prohibited vaping products on the black market. In light of that possible harm to the public from the denial of a stay, along with the absence of any evidence or persuasive argument that granting a stay would risk harm to the public, the court determines that this factor weighs in favor of granting a stay.

In sum, the court has considered petitioners' likelihood of success on judicial review, the likelihood of irreparable harm to petitioners in the absence of a stay, and the likelihood of harm to the public if a stay is granted. As explained above, all of those considerations weigh in favor of granting a stay. Accordingly, petitioners' request for a stay is granted. Enforcement of OAR 333-015-1000 is stayed pending judicial review or further order of the court.



THERESA M. KIDD
APPELLATE COMMISSIONER
11/14/2019 3:31 PM

c: David H Angeli
Kristen Lynn Tranetzki
Tyler Francis
Benjamin Gutman
J Ryan Adams
Denise G Fjordbeck
Michael A Casper
David Randall J Riskin

ej

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Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

Exhibit C

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



App-84
ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

02/24/2022 4:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Climate friendly and equitable communities rulemaking

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/19/2022 8:45 AM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Casaria Taylor
971-600-7699
casaria.taylor@dlcd.oregon.gov

635 Capitol St.
Ste. 150
Salem, OR 97301

Filed By:
Casaria Taylor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 03/31/2022

TIME: 8:30 AM

OFFICER: LCDC

ADDRESS: Virtual Hearing
no address

Salem, OR 97301

SPECIAL INSTRUCTIONS:

View the department's website on how to participate <https://www.oregon.gov/lcd/Commission/Pages/Meetings.aspx>

DATE: 05/19/2022

TIME: 8:30 AM

OFFICER: LCDC

ADDRESS: Virtual Hearing
635 Capitol St.

Commission Room

Salem, OR 97301

SPECIAL INSTRUCTIONS:

View the department's website on how to participate <https://www.oregon.gov/lcd/Commission/Pages/Meetings.aspx>

NEED FOR THE RULE(S)

On March 10, 2020, Governor Kate Brown issued Executive Order 20-04, directing agencies to reduce climate pollution. The Land Conservation and Development Commission is working on updating Oregon's Transportation Planning Rules and related administrative rules in response to this order. The Department of Land Conservation and Development (DLCD) initiated the Climate-Friendly and Equitable Communities (CFEC) rulemaking in September 2020.

The rulemaking will significantly impact Oregon's rules regarding transportation and housing planning, particularly in

the eight areas with populations over 50,000 people (Albany, Bend, Corvallis, Eugene/Springfield, Grants Pass, Medford/Ashland, Portland metro, Salem/Keizer). Some of the rules will also apply to and/or impact communities outside of these areas.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Governor's Executive Order 20-04 <https://www.oregon.gov/gov/Pages/executive-orders.aspx>

Statewide Transportation Strategy as adopted by the Oregon Transportation Commission in 2017

https://www.oregon.gov/odot/Planning/Documents/Oregon_Statewide_Transportation_Strategy.pdf

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” (ORS 183.335(2)(a)). Racial equity is a process of eliminating racial disparities and improving outcomes for Black, Indigenous, and other persons of color (BIPOC). It is the intentional and continual practice of changing policies, practices, systems, and structures by prioritizing measurable improvements in the lives of members of BIPOC populations. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities.

The proposed rule changes are extensive, and many directly reflect an increased concern with racial equity and equitable outcomes. The scope of the rule changes will impact most Oregon residents, with mandated efforts to engage and involve groups specifically identified as “underserved populations,” which includes, but is not limited to BIPOC individuals (OAR 660-012-0120). The new equity analysis requirement is intended to assess and analyze future decisions in considering their impact on underserved populations, and to develop strategies to increase equity and/or minimize unintended consequences (OAR 660-012-0130). Performance standards and the prioritization framework for TSPs have been modified to include racial equity standards and improving equitable outcomes for underserved populations (OAR 660-012-0170 & 660-012-0180).

The expanded outreach to underserved populations required in the new rules would be expected to identify and clarify areas of impact, concern, and adverse consequences of future transportation planning efforts. The required equity analysis (OAR 660-012-0130) is intended to ensure that land use and transportation plans improve outcomes for underserved populations, which would determine benefits and burdens on underserved populations. There is limited precedent for this type of analysis and methodological approaches are still evolving. The defined requirements are broad and in practice may be difficult to assess with rigor, but over time best practices would be expected to emerge consistent with budgetary and data limitations.

The rule changes reflect an increased focus on climate pollution reduction, and the targeted reduction in pollution and emissions will have broadly positive impacts for residents in the state. Pollution has been demonstrated to have a disproportionately negative impact on lower income residents and many BIPOC communities. The defined underserved population includes low-income and low wealth communities but is not limited to those communities. Nonetheless, demographic data indicates that many underserved populations will constitute a disproportionate percentage of lower income households.

The clear intent of the rule changes is to promote racial equity and equitable outcomes. Additional outreach, changes in prioritization, and specific equity study requirements are supportive of those goals. Many of the new rules to address racial equity will extend planning periods and increase costs, which could negatively impact underserved populations by delaying new transportation investments and/or reducing the available investment amounts. Conversely, improved engagement with underserved populations, and prioritization of transportation improvements to serve those populations, is expected to result in improved transportation facilities and services for these communities. Impacts on mobility can be regressive as transportation costs represent a higher percentage of overall expenditures for lower income households. This is particularly true when lower income households are dependent on motor vehicle ownership

to meet transportation needs. The new rules place a greater emphasis on alternative modes of transportation, with facilities and services that are anticipated to improve over time. While there may be some level of unintended consequences, we expect that the rules will further racial equity objectives. Over time the monitoring process outlined in the new rules should allow for recalibration of the rules if significant negative outcomes are identified.

FISCAL AND ECONOMIC IMPACT:

The Climate-Friendly and Equitable Communities (CFEC) Draft Administrative rules may result in fiscal and economic impacts including:

- Compliance costs, both monetary and time-related, for local governments to amend local development regulations for consistency with the draft rules and for DLCD to review those amendments.
- Potential increased costs and/or reduction in the efficiency of transportation systems for some users as additional performance criteria are introduced into the transportation system assessment.

The anticipated fiscal and economic impacts in each of these categories are discussed in more detail below.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

DIVISION 8 HOUSING

SMALL AND LARGE BUSINESSES

The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly.

LOCAL GOVERNMENT COSTS

The new rules require cities over 10,000 population within metropolitan areas to establish “climate friendly areas” that must be zoned to accommodate at least 30% of housing needs. Cities with a population between 5,000 and 10,000 in metropolitan areas would be required to designate at least 25 acres as a “climate friendly area.” Additionally, the rule requires the same cities, if expanding an urban growth boundary based on residential land needs after June 30, 2027, to designate additional climate friendly areas sized to accommodate an equivalent number of housing units to 50% of the residential units that could not be accommodated within the existing urban growth boundary. The amended language establishes requirements to promote the production of affordable housing, mitigate or avoid the displacement of specified protected classes, and removing barriers to housing choice for these classes in climate friendly areas or within Region 2040 Centers in the Portland metro area.

The fiscal impact of these changes will be limited to affected jurisdictions. The establishment of climate friendly areas and need to comply with the new residential capacity calculations to meet the requirements of the mandate will entail an increase in both time and cost of completing a periodic Housing Capacity Analysis. Demonstration of compliance will be included in each subsequent Housing Capacity Analysis. In addition, new development codes will be needed in most jurisdictions to implement the climate friendly area requirement. Changes to the Housing Production Strategy Report guidelines will also increase time and cost requirements for jurisdictions.

The incremental increase in time and cost can vary substantively between individual jurisdictions, depending upon previous planning efforts, historic development patterns, current BLI characteristics, demographic patterns, and characteristics of projected housing demand. The fiscal impact on an individual city will vary depending on these factors, as well as how the city chooses to comply with the proposed rules. The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city.

Given the range of options available to affected jurisdictions, it is difficult to estimate the exact fiscal impact. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs

imposed in that city for the process of formally adopting any amendments. The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis.

The rules also require, before adopting of any such amendments, that jurisdictions provide for DCLD review of proposed changes. This is also anticipated to have a fiscal impact on both jurisdictions as well as DCLD.

STATE AGENCY COSTS

The proposed Division 8 rules are expected to have a substantive fiscal impact on only DCLD among state agencies. DCLD staff will be responsible for the review of Housing Capacity Analyses and Housing Production Strategy Reports to assure compliance with the updated rules. Agency review of these reports was already necessitated by the passage of HB 2003 in 2019, but additional staff effort is expected due to the lack of prior precedent studies, the increased complexity of housing analysis, and the range of requirements and standards that staff will need to analyze. The agency already has increased staff capacity to manage these reviews.

Additionally, there is the potential for DCLD to incur Department of Justice legal fees in situations where DCLD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DCLD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

The fiscal impact to DCLD is difficult to estimate due to the complexity of the issues involved. DCLD staff will be required to review comprehensive plan documents and land use development code, housing needs and capacity analysis, and housing production strategies in a wide range of market and geographic contexts. The agency will also need to provide financial and technical assistance to the local governments administering the proposed rules. DCLD should anticipate that additional staff capacity will be required to implement and maintain the program.

PUBLIC

The housing rules are limited to the designation of climate friendly areas and the allocation of additional housing capacity to those areas. Although the zoning of climate friendly areas could result in the displacement of underserved populations who may reside in these areas, the required proactive analysis of the potential for displacement and identification of mitigation strategies to address potential displacement will help to avoid or mitigate such negative impacts. The public would not be directly impacted by these rules. The costs incurred by local jurisdictions and state agencies may reduce resources available for other uses, but this impact is expected to be negligible.

DIVISION 12: TRANSPORTATION

The Division 12 Transportation rules have been significantly altered and expanded in this rulemaking exercise. The marginal shift is reflected in the updated purpose statement (OAR 660-012-0000), which has been modified to substantively increase the emphasis on alternative transportation options, underserved populations, safety, and climate pollution reduction. These changes are reflected throughout the remainder of the rule changes.

A range of new rules are proposed under Division 12, which establish and clarify requirements for preparing, adopting, amending, and implementing local transportation system plans (TSPs). The new rules reflect the shift in focus outlined in the purpose statement. New requirements in TSPs include an expanded engagement process and equity analysis. The rules define "underserved populations" for transportation and land use planning.

The projected reduction of Vehicle Miles Traveled (VMTs) per capita will be required in any new TSP, with VMTs used as a proxy for emissions. Project ranking and prioritization will focus on alternative modes and incorporate equity and reducing climate pollution in performance standards.

Parking rules have been changed to reduce parking requirements and require the installation of Electric Vehicle (EV) charging infrastructure for new construction. The focus on EV infrastructure reflects climate objectives and a goal to have EVs represent 90% of new vehicles, and 50% of all vehicles, by 2035. While most EVs will still lead to emission of non-point-source pollution, future adjustments may be needed to how VMTs are calculated as a proxy for emissions.

A series of rules is also proposed that pertain to metropolitan areas, and address pedestrian, bicycle, public transportation, and streets and highway systems. The rules provide guidance for planning, minimum requirements, determination of projects, and consideration of options.

OAR 660-012-0830 outlines a significant change in the review of transportation facilities that could increase climate pollution. The process is intended to encourage local governments to identify, review, assess, and potentially implement alternatives to these types of facilities.

SMALL AND LARGE BUSINESSES

The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly. Businesses may be impacted by changes over time in transportation infrastructure, which may either increase or decrease the ability of the system to meet business needs in some instances. This would predominantly apply to freight traffic, which while not specifically addressed in the proposed rules does utilize the same transportation facilities as light vehicles. Any increase in congestion could impact freight mobility. For many jurisdictions in the state that are not served by rail or navigable waterways, trucks are the only freight alternative. Conversely, if VMT per capita reduction goals are achieved, reduced congestion from light-duty vehicle traffic may improve the efficiency of freight transportation.

As the impact on freight is correlated with the success of the rule changes in achieving a reduction in VMT per capita, an ongoing monitoring and feedback system could help identify issues quickly. The expected success of these programs is likely to vary substantively at the jurisdictional level.

EV infrastructure requirements in new construction of commercial buildings will also increase costs, which may be reflected in an increase in lease rates for commercial space. Businesses may also benefit from the proposed changes depending upon the nature of their operations and transportation requirements. Requirements for trees or solar panels in new surface parking lots larger than one-quarter acre will increase costs in areas where such local requirements do not already exist.

LOCAL GOVERNMENT COSTS

Local governments are expected to incur an increase in costs in the preparation of local or regional transportation system plans. The requirement for these plans is changed substantively, as are rules directing how local governments in metropolitan areas prepare and coordinate local TSPs. The Division 12 rules require study and adoption of climate friendly areas, adopt land use requirements for these areas, and comprehensive plan element by June 30, 2024 (OAR 660-012-0012).

Preparation of TSPs consistent with the proposed rules is expected to be more costly and take a greater length of time to prepare and adopt. Timing will be impacted by the expanded engagement process and required equity analysis, both of which will also entail an increase in cost. While the requirements of an equity analysis are provided in OAR 660-012-0135, there are limited prior examples and precedent for these studies. The cost and time required to prepare this type of analysis is difficult to estimate and will vary substantively by jurisdiction.

Mass transit, transportation, airport, and port districts will be required to participate in the TSPs and prepare and adopt plans. There will be a financial and time cost associated with this for these agencies. Additional costs associated with TSP preparation may lower the resources available to fund projects. Additional financial costs to local jurisdictions and service providers may be offset by additional grant funding from the State, but jurisdictions will incur costs associated with preparing grant applications.

New TSPs will need to establish vehicle miles traveled (VMT) reduction targets, and a TSP can only be adopted if the projected VMT per capita at the horizon year is lower than the estimated base year. As provided in OAR 660-012-0165(3), the performance targets for cities and counties must now include increasing transportation choices, avoiding principal reliance on the automobile, and reducing transportation-related climate pollution. The impact of these shifts in criteria is expected to vary significantly by jurisdiction and geographic location. Jurisdictions that rely upon fuel taxes as a revenue source would be impacted if the VMT targets are met. The VMT per capita reduction over the planning horizon is still expected to result in marginally higher overall VMTs based on population growth projections, but the growth in expected fuel tax revenues would be projected to be lower. These same revenue streams would also be impacted by increased EV adoption.

Oregon's Department of Environmental Quality Climate Protection Plan will also have a substantive impact on expected gas tax revenues, which may lead jurisdictions to move to other sources of revenue to fund transportation

projects.

The evaluation criteria for new projects would be shifted to emphasize alternative transit options, equity, safety, and pollution reduction. The transportation prioritization framework (OAR 660-012-0180) outlines the updated criteria. Incorporating these factors into project selection and prioritization would be expected to yield a reduced level of transportation system performance based on traditional metrics, which would be offset by expected gains in less quantifiable metrics. The new criteria will optimize the system for a broader range of variables. System development charge (SDC) revenues are limited in use to capacity-adding improvements. It is unclear but seems likely that the new project prioritization approach will limit these types of improvements in the future, with an additional level of review required under OAR 660-012-0830). However, it is likely that over time, SDC programs would expand support for infrastructure improvements for other transportation modes, such as transit, bicycle, and pedestrian improvements, which would more easily qualify for funding.

There are significant rule changes addressing parking (OAR 660-012-0400 to 0450). The proposed new rules would mandate an increased level of electrical infrastructure to accommodate the installation of Level 2 charging stations. The intent of the new rules is to increase access to charging infrastructure by requiring investment during new construction. We do not expect this change to have a substantive cost on local governments. The rules also requires that cities and counties adopt rules on surface parking lots, including the provision of either solar panels or tree canopy on lots more than an acre in area. The cost of new surface parking is expected to increase significantly from these new requirements. The cost to local governments is associated with preparation and adoption of the necessary code language and may also include higher construction and operational costs if the jurisdiction develops new surface parking for public use. Rule changes such as the EV infrastructure and surface parking requirements are expected to increase costs for both public- and private-sector development. This would be offset to some extent by reduced parking requirements for new development where the market will accept lower parking ratios than currently mandated. Local governments would be impacted directly if costs for public facilities were increased but may also be indirectly impacted by the increase in cost on private development activity. Higher development costs would be expected to place pressure on revenues (rents) and/or land values. This may affect the rate of redevelopment and the level of market intervention required to achieve desired development patterns.

The incremental increase in time and cost can vary substantively between individual jurisdictions, depending upon previous planning efforts, transportation system characteristics and needs, demographic patterns, and characteristics of projected housing demand. The fiscal impact on an individual city will vary depending on these factors, as well as how the city chooses to comply with the proposed rules. The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs imposed in that city for the process of formally adopting any amendments. The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis. Some jurisdictions may also have a greater level of difficulty meeting requirements in climate friendly areas. As an example, jurisdictions in central Oregon will need to consider issues such as winter snow storage and removal.

It is not clear how the change in TSP rules and requirements will impact existing transportation planning efforts. Jurisdictions may have significant investments in prior planning efforts overridden by the new requirements. This may require additional planning efforts to replace or modify existing plans to conform to the new rules. The rules also require, before adopting of any such amendments, that jurisdictions provide for ODOT and DCLD review of proposed changes. This is also anticipated to have a fiscal impact on both jurisdictions as well as ODOT and DLCD.

STATE AGENCY COSTS

The proposed Division 12 rules are expected to have a substantive fiscal impact on ODOT and DLCD among state agencies. ODOT will be responsible for preparation, adoption, and maintenance of a state TSP. In addition, both ODOT and DLCD staff will be responsible for the review of local transportation system plans, equity analysis, and planning documents.

The agencies will be expected to offset many of the anticipated cost increases to counties and cities through planning

and technical grants. The direct cost of these grants will be significant as will the staff time required for grant application review and ongoing grant administration. Both ODOT and DLCD should anticipate that additional staff capacity will be required to implement and maintain the new TSP requirements. As a transportation facility provider, ODOT will also have a role in the development of Highway Impact Summaries required in conjunction with the zoning of climate friendly areas, as well as in the VMT-increasing facility review process.

If the rule changes are successful in reducing VMTs then transportation user fee revenues would be expected to drop. In addition, if the State succeeds or progresses towards meeting its' EV adoption goals, fuel tax revenues would be expected to drop significantly.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

PUBLIC

The transportation rules are extensive, but effectively limited to TSP requirements and project prioritization. The public would not be directly impacted by compliance with these rules, but the resulting change in transportation infrastructure investment may have an impact. As with businesses, the nature of the impact may be positive or negative depending upon transportation system needs of individuals. The costs incurred by local jurisdictions and state agencies associated with compliance with the new rules may reduce resources available for other uses.

Although transit agencies are outside the direct jurisdiction of the rules, adoption of the rules will have significant impacts for transit agencies within the eight metropolitan areas. While the rules call for increased support and planning coordination with transit agencies, there will be a greater need for planning and participation by transit agency staff.

The public would be expected to benefit from the targeted reduction VMTs, which have been correlated with air pollutants and health impacts, fatalities and injuries, congestion, and transportation costs.

DIVISION 44: METROPOLITAN GREENHOUSE REDUCTION RULES

The purpose of this division is to significantly reduce climate pollutants from light vehicles. New rules include a revised purpose statement, schedule, and work program for scenario planning, required contents for a scenario plan, and department and commission review. The new rules require the preparation of transportation and land use scenarios that define and implement a preferred scenario, identification of performance measures to track progress, and adoption of measures that avoid and/or mitigate impacts to underserved populations as well as improving outcomes over time.

This division implements Oregon Land Use Planning Goal 12 (Transportation), and the stated goal in ORS 468A.205 to reduce greenhouse gas emissions. Many of the rules initially included in Division 44 have been moved to Division 12. The rules expand the scenario planning requirements to cities and counties beyond the Portland metro area. It provides dates for cities and counties in the Eugene-Springfield metro area to adopt and implement the preferred scenario from a regional alternatives planning effort completed in 2011-15. It also provides compliance dates for the Salem-Keizer metro area to undertake scenario planning. Other regions are allowed to voluntarily opt into the regional planning program.

SMALL AND LARGE BUSINESSES

The geographic scope of the Division 44 changes is limited to three metropolitan areas in the state. The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly. Businesses may be impacted by changes over time in transportation infrastructure, which may decrease the ability of the system to meet business needs in some instances. The scenario planning requirements may increase congestion on roadways shared by both light vehicles and freight, which could negatively impact a wide range of businesses as well as the public. Freight mobility has been under increasing stress due to a rise in just-in-time inventory management and online retail, and the importance of supply chains has been a significant business factor in the last year. Conversely, if VMT per capita reduction goals are achieved, reduced congestion from light-duty vehicle traffic may improve the efficiency of freight transportation.

A subset of businesses may also benefit from the proposed changes. The impact on individual businesses is expected to be highly variable depending upon the nature of their operations and transportation requirements.

LOCAL GOVERNMENT COSTS

The fiscal impacts on local governments would be limited to the geographic areas required to conduct scenario planning (the Portland, Eugene-Springfield, and Salem-Keizer metro areas). The impacted cities and counties submit a work program, prepare a scenario plan, and adopt those plans. The rules establish emission reduction targets for the Portland metro and other metro areas.

The land use and transportation scenario planning work will need to be completed by the Eugene-Springfield and Salem-Keizer metro areas. There will be a direct fiscal cost to affected jurisdictions to conduct these planning efforts. This would include staff time and may include the hiring of outside consultant to assist in preparation. The cost of the planning effort may be offset by grants, but preparation of grant applications will also represent a related cost. ODOT and DLCD have identified funding to support scenario planning in Eugene-Springfield and Salem-Keizer.

The plan will need to be reviewed by DLCD, and when approved they would need to be adopted through an amendment to impacted jurisdictions' comprehensive plans. Local costs will be incurred during the review and adoption process.

The rules under Division 44 are not expected to impact local government revenues substantively. As with the Division 8 rules, the additional emphasis on climate goals and underserved populations may yield an optimal scenario that is more costly relative to gains in function than one with a more limited number of prioritization variables.

The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs imposed in that city for the process of formally adopting any amendments.

STATE AGENCY COSTS

The proposed Division 12 rules are expected to have a substantive fiscal impact on DLCD and ODOT, with staff responsible for the review of local land use and transportation scenario planning.

The agencies will be expected to offset many of the anticipated cost increases to counties and cities through planning and technical grants. The direct cost of these grants will be significant as will the staff time required for grant application review and ongoing grant administration. DLCD and ODOT should anticipate that additional staff capacity will be required to implement and maintain the new scenario planning requirements. As the planning mandates under this division expand the requirements to only two additional metropolitan areas, the required staff time should be more limited than for the other divisions.

As noted with in the Division 8 discussion, if the rule changes are successful in reducing VMTs to the targeted levels, then transportation user fee revenues would be expected to drop commensurately. This would lead to a significant loss of revenue for ODOT. Freight traffic is not targeted by the rules but could also be impacted by the change in prioritization of projects. The additional time required for the TSP planning process has the potential to impact ODOT's ability to obtain federal funding for selected projects. This is not something that can be reliably quantified in advance, but federal infrastructure financing is often time sensitive. Potential changes to transportation planning and funding at the state and federal level could mitigate these concerns.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

PUBLIC

The geographic scope of the changes in this division is limited to three metropolitan areas in the state. The public would have no direct compliance requirements. The public may be impacted by changes over time in transportation infrastructure, with individual impacts expected to be highly variable depending upon the nature of transportation requirements. The new rules specifically target outcomes for underserved populations, and impacts would be expected to be more positive for these populations.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Included in Cost of Compliance section

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

The proposed rule changes will impact portions of the housing market, and as a result may have an impact on the cost of developing housing and home pricing (rents/purchase prices). Division 8 rules directly address housing production and require a housing production strategy report to be completed. This report can provide necessary feedback to assure that impacts on housing are understood and addressed.

The following is a summary of key components of the proposed rules that would be expected to impact residential markets:

- **Climate Friendly Areas** – The allowable zoned density is expected to be relatively high in designated climate friendly areas. This could lead to higher density housing products to account for an increased share of new housing production. The rules envision that these areas would provide strong connectivity and a mix of housing, jobs, and services.
- **Equity Analysis** – This is a new rule requiring the completion of an equity analysis, to identify impacts of proposed projects and policies and potentially inequitable consequences and burdens on impacted communities. These analyses will include the development of strategies to create greater equity or minimize unintended consequences.
- **Parking Requirements** – Reduction in required on-site parking, EV charging infrastructure mandate, and bike parking requirements. In addition, new rules regarding surface parking could impact the price of providing this amenity. Only the reduction in on-site parking would impact the reference case development.
- **Housing Production Strategy** – Cities with populations greater than 10,000 will prepare and adopt a Housing Strategy Report. This report will include a list of specific actions to promote development within the city to address identified housing needs. The report must also address how the city will create compact mixed-use neighborhoods available to member of identified protected classes, the production of affordable housing, removal of barriers and increased housing choice for protected classes, and within climate friendly areas.

The reference case for this analysis is a 1,200 square foot single family home on a 6,000 square foot lot. Minimum density requirements in climate friendly areas will preclude single family residential homes, although some middle housing products may be possible for cities with populations less than 25,000 (OAR 660-012-0320). In jurisdictions in which the reference home configuration is prohibited on at least 30% of its residential capacity, there may be a shortage of available capacity for this type of housing relative to demand (although the housing needs analysis and/or production strategy should prevent this outcome). Cities will be required to continue to plan to meet all residential land needs based on anticipated demographics such as household size and income, and on recent development trends.

The proposed changes can impact the cost of housing through the cost of production and market pricing power.

Reductions in required parking ratios can significantly reduce development costs in situations where the market-required parking is lower than that mandated in zoning. While the provision of EV infrastructure and bike parking can increase costs, this is not relevant to the reference case housing type.

The Housing Production Strategy process for jurisdictions larger than 10,000 population can address specific issues for individual jurisdictions and segments of the market.

The equity analysis is not expected to directly impact housing prices for the reference product, but strategies emerging from this analysis may have an impact on residential pricing.

In summary, the rules would be expected to have a negligible impact on home pricing for a 1,200 square foot home on a 6,000 square foot lot. The inclusion of the Housing Production Strategy process should allow for larger jurisdictions to calibrate their policies and programs to mitigate against escalatory pricing impacts on housing.

RULES PROPOSED:

660-008-0010, 660-008-0050, 660-012-0000, 660-012-0005, 660-012-0011, 660-012-0012, 660-012-0015, 660-012-0016, 660-012-0035, 660-012-0045, 660-012-0060, 660-012-0100, 660-012-0105, 660-012-0110, 660-012-0115, 660-012-0120, 660-012-0125, 660-012-0130, 660-012-0135, 660-012-0140, 660-012-0145, 660-012-0150, 660-012-0155, 660-012-0160, 660-012-0170, 660-012-0180, 660-012-0190, 660-012-0200, 660-012-0210, 660-012-0215, 660-012-0300, 660-012-0310, 660-012-0315, 660-012-0320, 660-012-0325, 660-012-0330, 660-012-0340, 660-012-0350, 660-012-0360, 660-012-0400, 660-012-0405, 660-012-0410, 660-012-0415, 660-012-0420, 660-012-0425, 660-012-0430, 660-012-0435, 660-012-0440, 660-012-0445, 660-012-0450, 660-012-0500, 660-012-0505, 660-012-0510, 660-012-0520, 660-012-0600, 660-012-0605, 660-012-0610, 660-012-0620, 660-012-0630, 660-012-0700, 660-012-0705, 660-012-0710, 660-012-0720, 660-012-0800, 660-012-0805, 660-012-0810, 660-012-0820, 660-012-0830, 660-012-0900, 660-012-0905, 660-012-0910, 660-012-0915, 660-012-0920, 660-036-0000, 660-036-0004, 660-044-0000, 660-044-0005, 660-044-0015, 660-044-0020, 660-044-0025, 660-044-0030, 660-044-0035, 660-044-0040, 660-044-0045, 660-044-0050, 660-044-0055, 660-044-0060, 660-044-0100, 660-044-0110, 660-044-0120, 660-044-0130

AMEND: 660-008-0010

RULE SUMMARY: The proposed rule amendments establish requirements for certain local governments to designate climate friendly areas in conjunction with adoption of a Housing Capacity Analysis, as well as with some types of urban growth boundary amendments.

CHANGES TO RULE:

660-008-0010

Allocation of Buildable Land ¶¶

(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.¶¶

(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):¶¶

(a) Following the initial designation of climate friendly areas as required in OAR 660-012-0315, local governments shall maintain climate friendly area zones with sufficient average buildable residential area to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate friendly area for the purpose of meeting identified housing needs as required by Goal 10 and OAR 660, division 7 or this division in a manner consistent with ORS 197.296(5).¶¶

(b) The local government shall calculate the average buildable residential area within climate friendly areas consistent with the provisions of OAR 660-012-0315(2). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.¶¶

(c) The local government shall establish land use requirements in climate friendly areas as provided in OAR 660-012-0320 for any newly designated climate friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.¶¶

(3) Beginning June 30, 2027:¶¶

(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.¶¶

(b) A local government shall designate and zone climate friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.¶¶

(c) The local government shall calculate the climate friendly area needed based on the average buildable residential area as provided in OAR 660-012-0315(2), while the local government shall determine housing capacity within the climate friendly area for the purpose of meeting identified housing needs as required by Goal 10 and OAR 660, division 7 or this division in a manner consistent with ORS 197.296(5).¶¶

(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate friendly area if the area qualifies for designation as provided in OAR 660-012-0310(1), or may choose to designate additional climate friendly area in other locations within the urban growth boundary that qualify for

designation.¶

(e) The local government may accommodate additional climate friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.295 - 197.314, ORS 197.475 - 197.490

AMEND: 660-008-0050

RULE SUMMARY: The proposed rule amendment establishes requirements for certain local governments to include data and analysis related to housing development within climate friendly areas or within Metro's Region 2040 centers in Housing Production Strategy Reports.

CHANGES TO RULE:

660-008-0050

Housing Production Strategy Report Structure

As provided in ORS 197.290(2), a city with a population of more than 10,000 people must develop and adopt a Housing Production Strategy Report that includes a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296(3) or ORS 197.296(10) for the most recent 20-year period described in the city's Housing Capacity Analysis. At a minimum, this Report must include the following components:¶¶

(1) Contextualized Housing Need - A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.¶¶

(a) At a minimum, this must include a discussion of:¶¶

(A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;¶¶

(B) Measures already adopted by the city to promote the development of Needed Housing;¶¶

(C) Market conditions affecting the provision of Needed Housing;¶¶

(D) Existing and expected barriers to the development of Needed Housing;¶¶

(E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:¶¶

(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;¶¶

(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;¶¶

(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and¶¶

(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.¶¶

(F) Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112- 0020(2);¶¶

(G) Housing tenure, including rental and owner households; and¶¶

(H) Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.¶¶

(b) A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:¶¶

(A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;¶¶

(B) Units that the city has permitted but which have not yet been produced;¶¶

(C) Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;¶¶

(D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and¶¶

(E) Other types and sources of data to refine housing need for those experiencing homelessness, including:¶¶

(i) Data collected by local Coordinated Care Organizations;¶¶

(ii) Data collected by community action agencies;¶¶

(iii) The capacity of existing emergency shelters;¶¶

(iv) Rental and homeowner vacancy rates;¶¶

(v) Change in gross or net property values or rent over time;¶¶

(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and¶¶

(vii) Other local houseless population datasets¶¶

(2) Engagement - A Housing Production Strategy Report must include a narrative summary of the process by which the city engaged Consumers of Needed Housing and Producers of Needed Housing, especially with regard to state and federal protected classes. A city may conduct engagement for a Housing Production Strategy concurrent with other housing planning efforts within the city including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public

engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary must include the following elements:¶¶

- (a) A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;¶¶
- (b) A summary of feedback received from each stakeholder group;¶¶
- (c) A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the city as provided in section (3); and¶¶
- (d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.¶¶

(3) Strategies to Meet Future Housing Need - A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in section (1). A Housing Production Strategy Report may identify strategies including, but not limited to, those listed in the Housing Production Strategy Guidance for Cities published by the Commission under Exhibit B. For each identified Housing Production Strategy, the Housing Production Strategy Report must include:¶¶

- (a) A description of the Housing Production Strategy chosen;¶¶
- (b) A timeline for adoption of the Housing Production Strategy;¶¶
- (c) A timeline for implementation of the Housing Production Strategy; and¶¶
- (d) An estimated magnitude of impact of the Housing Production Strategy, including:¶¶
 - (A) Housing need addressed by the identified Housing Production Strategy by tenure and income;¶¶
 - (B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;¶¶
 - (C) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy, including:¶¶
 - (i) Low-income communities;¶¶
 - (ii) Communities of color;¶¶
 - (iii) People with disabilities; and¶¶
 - (iv) Other state and federal protected classes; and¶¶
 - (D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.¶¶

(4) Achieving Fair and Equitable Housing Outcomes - A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:¶¶

(a) Location of Housing - How the city is striving to meet statewide greenhouse gas emission reduction goals, established under Executive Order No. 20-04, by creating compact, mixed-use neighborhoods available to people part of state and federal protected classes who are members of state and federal protected classes. Within Metro, cities subject to this rule shall describe actions taken by the city to promote the production of regulated affordable units, as defined in Oregon Laws 2018, chapter 47, section 1; to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within Region 2040 centers. Cities subject to this rule and to OAR 660-012-0310(2) shall describe actions taken by the city to promote the production of regulated affordable units, as defined in Oregon Laws 2018, chapter 47, section 1; to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within climate friendly areas. An accessible dwelling unit is a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes;¶¶

(b) Fair Housing - How the city is affirmatively furthering fair housing for all state and federal protected classes. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;¶¶

(c) Housing Choice - How the city is facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.¶¶

(d) Housing options for residents experiencing homelessness - How the city is advocating for and enabling the provision of housing options for residents experiencing homelessness and how the city is partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for residents experiencing homelessness;¶¶

- (e) Affordable Homeownership and Affordable Rental Housing - How the city is supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation via homeownership, primarily for state and federal protected classes that have been disproportionately impacted by past housing policies; and¶¶
 - (f) Gentrification, Displacement, and Housing stability - How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.¶¶
 - (5) A Housing Production Strategy Report must include the following additional elements:¶¶
 - (a) A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;¶¶
 - (b) A description of actions that the city and other stakeholders must take to implement the proposed Housing Production Strategies;¶¶
 - (c) If the Housing Production Strategy Report is the first produced under this division, a description of how the city will measure strategy implementation and progress;¶¶
 - (d) If the Housing Production Strategy Report is not the first produced under this section, a summary of strategies that the city has previously adopted and implemented, and a reflection on the efficacy of each implemented strategy; and¶¶
 - (e) A copy of the city's most recently completed survey to meet the requirements of ORS 456.586.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303

AMEND: 660-012-0000

RULE SUMMARY: Changes to update the purpose statement for the division.

CHANGES TO RULE:

660-012-0000

Purpose ¶

(1) This division implements Statewide Planning Goal 12 (Transportation) to provide and encourage a safe, convenient, and economic transportation system. This division also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in close coordination with urban and rural development. The purpose of this division is to direct transportation planning in coordination with land use planning to:¶

(a) Provide for safe transportation for all Oregonians;¶

(b) Promote the development of transportation systems adequate to serve statewide, regional, and local transportation needs and the mobility needs of the transportation disadvantaged;¶

~~(b) Encourage and support the availability of a variety of transportation choices for moving people that baand access needs of those who cannot drive and other underserved populations;~~¶

(c) Provide for affordable, accessible and convenient transit, pedestrian, and bicycle access and circulation, with improved connectivity to destinations people want to reach, such as education facilities, workplace vehicular use with other transportation modes, including walking, bicycling and transit in order to avoid principal reliance upon any one mode of; services, shopping, places of worship, parks, open spaces, and community centers;¶

(d) Foster that ability of Oregon to meet its statutory and executive goals to reduce climate pollution by reducing pollution from transportation;¶

~~(e) Provide for safe and convenient vehicular, transit, pedestrian, and bicycle access and circ~~Recognize and remedy impacts of past practices such as redlining, displacement, exclusionary zoning, inaccessible design, and roadway and other public infrastructure siting that harmed underserved populations;¶

~~(df) Facilitate the safe, efficient and economic~~Engage those populations in decision-making and prioritize investments serving those communities;¶

(g) Facilitate the safe flow of freight and other goods and services within regions and throughout the state through a variety of modes including road, air, rail, and marine transportation;¶

~~(eh)~~ Protect existing and planned transportation facilities, corridors, and sites for their identified functions;¶

(fi) Provide for the construction and implementation of transportation facilities, improvements, and services necessary to support acknowledged comprehensive plans;¶

(gj) Identify how transportation facilities are provided on rural lands consistent with the goals;¶

~~(hk) Ens~~Protect and restore safe passage for fish and wildlife, flood waters, and other natural system functions at roadway crossings of waterbodies and other native habitat corridors;¶

(l) Require coordination among affected local governments and transportation service providers and consistency between state, regional, and local transportation plans; and¶

~~(im) Ens~~urcourage that changes to comprehensive plans are supported by adequate planned transportation facilities for all modes.¶

(2) In meeting the purposes described in section (1), coordinated land use and transportation plans should ensure that ~~the planned~~ the transportation system supports a pattern of travel and land use in urban areas that will avoid ~~the common~~ air pollution, traffic and livability problems faced by other large urban areas of the country climate pollution, inequity, wasteful spending, and health and livability problems, through measures designed to increase transportation ~~choice options~~ and make more efficient use of the existing transportation system.¶

(3) The extent of planning required by this division and the outcome of individual transportation plans will vary depending on community size, needs and circumstances. Generally, larger and faster growing communities and regions will need to prepare more comprehensive and detailed plans, while smaller communities and rural areas will have more general plans. For all communities, the mix of planned transportation facilities and services should be sufficient to ~~ensur~~ promote economic, sustainable and environmentally sound mobility and accessibility for all Oregonians. Coordinating land use and transportation planning will also complement efforts to meet other state and local objectives, including containing urban development, reducing the cost of public services, protecting farm and forest land, reducing air, water and noise pollution, conserving energy and reducing ~~emissions of greenhouse gases that contribute to global climate change~~ climate pollution.¶

(a) In all urban areas, coordinated land use and transportation plans are intended to provide safe ~~and convenient vehicular circul~~ transportation and to enhance, promote and facilitate safe and convenient pedestrian and bicycle travel by planning a well-connected network of streets, sidewalks, paths, and trails, and supporting improvements for ~~all non-driving~~ travel modes.¶

(b) In urban areas ~~with a~~ ~~that contain~~ a population greater than 25,000 persons, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting the provision of transit service ~~where feasible~~ and more efficient performance of existing transportation facilities through transportation system management and demand management measures.¶¶

(c) Within metropolitan areas, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting changes in the transportation system and land use patterns. A key outcome of this effort is a reduction in ~~reliance~~ dependence on single occupant automobile use, particularly during peak periods. To accomplish this outcome, this division promotes increased planning for ~~alternative~~ non-driving modes and street connectivity and encourages land use patterns throughout urban areas that make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs. The result of applying these portions of the division will vary within metropolitan areas. Some parts of urban areas, such as downtowns, pedestrian districts, transit-oriented developments, climate friendly areas, areas along priority transit corridors, and other mixed-use, pedestrian-friendly centers, will be highly convenient for a variety of modes, including walking, bicycling and transit, while others will be more auto-oriented ~~and include more modest measures to accommodate access and circulation by other modes~~ while still providing for safe and convenient access and circulation by other modes. In all instances, infrastructure shall be designed and constructed to deliver safety and convenience for all Oregonians.¶¶

(4) This division sets requirements for coordination among affected levels of government and transportation service providers for preparation, adoption, refinement, implementation and amendment of transportation system plans. Transportation system plans adopted pursuant to this division fulfill the requirements for public facilities required under ORS 197.712(2)(e), Goal 11 and OAR chapter 660, division 11, as they relate to transportation facilities. The rules in this division are not intended to make local government determinations "land use decisions" under ORS 197.015(10). The rules recognize, however, that under existing statutory and case law, many determinations relating to the adoption and implementation of transportation plans will be land use decisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 195.012, ORS 197.040, ORS 197.712, ORS 197.717, ORS 197.732

AMEND: 660-012-0005

RULE SUMMARY: Changes to some definitions and addition of some new definitions.

CHANGES TO RULE:

660-012-0005

Definitions ¶

(1) "Access Management" means measures regulating access to streets, roads and highways from public roads and private driveways. Measures may include but are not limited to restrictions on the siting of interchanges, restrictions on the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impacts of approach road traffic on the main facility.¶

(2) "Accessible dwelling unit" means a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes.¶

(3) "Accessibility" means:¶

(a) In the context of people with disabilities, measures to ensure equal access to goods, products, and services, both in the built environment, and processes such as communication.¶

(b) In the context of transportation, the ability to reach destinations in a safe, convenient, and comfortable way.¶

(4) "Accessway" means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved or marked in a manner which provides convenient access for pedestrians.¶

(35) "Affected Local Government" means a city, county, or metropolitan service district that is directly impacted by a proposed transportation facility or improvement.¶

(46) "Approach Road" means a legally constructed, public or private connection that provides vehicular access either to or from or to and from a highway and an adjoining property.¶

(57) "Area, gross" means the total area of an area considered for development or redevelopment.¶

(8) "Area, net" means the total area of an area considered for development or redevelopment, minus proposed or existing public street rights of way, public parks and open space areas, areas with protected natural features, and any other areas permanently precluded from development due to development constraints, easements, or similar legal instruments.¶

(9) "At or near a major transit stop: "At" means a parcel or ownership which is adjacent to or includes a major transit stop generally including portions of such parcels or ownerships that are within 200 feet of a transit stop. "Near" generally means a parcel or ownership that is within 300 feet of a major transit stop. The term "generally" is intended to allow local governments through their plans and ordinances to adopt more specific definitions of these terms considering local needs and circumstances consistent with the overall objective and requirement to provide convenient pedestrian access to transit.¶

(610) "Committed Transportation FBicycle boulevard" means bicycle facilities on streets with low motorized traffic volumes and speeds, designated and designed to give bicycle travel priority. Bicycle boulevards use signs, markings, and other measures such as traffic diverters to discourage through trips by motor vehicles and create safe, convenient bicycle crossings of busy streets.¶

(11) "Climate Friendly Area" means an urban mixed-use area containing, or planned to contain, a mixture of higher-density housing, jobs, businesses, and services. These areas are served by, or planned for service by, high-quality pedestrian, bicycle, and transit infrastructure and services to provide frequent and convenient connections to key destinations within the city and region. These areas feature a well-designed and connected pedestrian environment. To maximize community benefits these areas typically do not contain or require large parking lots, and are provided with abundant tree canopy and vegetation to provide shade, cooling, and other amenities to visitors, residents, and employees. Climate friendly areas will reduce the reliance on light duty motor vehicle trips for residents, workers, and visitors by providing more proximate destinations within climate friendly areas, improved connectivity to key destinations elsewhere in the community, and enhanced alternative transportation options.¶

(12) "Commercial parking lot" means a location without a primary use on the lot or parcel where parking spaces are rented or leased to individual drivers. It does not include shared parking arrangements.¶

(13) "Committed transportation facilities" means those proposed transportation facilities and improvements which are consistent with the acknowledged comprehensive plan and have approved funding for construction in a

public facilities plan or the Six-Year Highway or Transportation Improvement Program.¶¶

(714) "Demand Management" means actions which are designed to change travel behavior in order to improve performance of transportation facilities and to reduce need for additional road capacity. Methods may include, but are not limited to, the use of alternative modes, ride-sharing and vanpool programs, trip-reduction ordinances, shifting to off-peak periods, and reduced or paid parking.¶¶

(8) "Influence area of an interchange" means the area 1,320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.¶¶

(915) "Direct current fast charger" means a device or facility for delivering electricity to motor vehicles that offers means for remotely managing charging levels, is rated 120 kW power rating or higher per charger, and offers at least one connector to plug into electric vehicles.¶¶

(16) "Freeway" means a limited-access highway with access points exclusively from interchanges with other streets and highways. Freeways may provide very limited access for rural land uses in rural areas where no other access is available.¶¶

(17) "Influence area of an interchange" means the area 1,320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.¶¶

(18) "Level 1 electric vehicle charging" means a device or facility for delivering electricity to motor vehicles that operates on at least a 20 ampere breaker on a 125 volt AC circuit.¶¶

(19) "Level 2 electric vehicle charging station" means a device or facility for delivering electricity to motor vehicles that operates on at least a 40 ampere breaker on a 208/240 volt AC circuit.¶¶

(20) "Local streets" means streets that are functionally classified as local streets to serve primarily local access to property and circulation within neighborhoods or specific areas. Local streets do not include streets functionally classified as collector or arterials.¶¶

(210) "Local Street Standards" include but are not limited to standards for right-of-way, pavement width, travel lanes, parking lanes, curb turning radius, and accessways.¶¶

(1122) "Major" means, in general, those facilities or developments which, considering the size of the urban or rural area and the range of size, capacity or service level of similar facilities or developments in the area, are either larger than average, serve more than neighborhood needs or have significant land use or traffic impacts on more than the immediate neighborhood.¶¶

(a) "Major" as it modifies transit corridors, stops, transfer stations and new transportation facilities means those facilities which are most important to the functioning of the system or which provide a high level, volume or frequency of service;¶¶

(b) "Major" as it modifies industrial, institutional and retail development means such developments which are larger than average, serve more than neighborhood needs or which have traffic impacts on more than the immediate neighborhood;¶¶

(c) Application of the term "major" will vary from area to area depending upon the scale of transportation improvements, transit facilities and development which occur in the area. A facility considered to be major in a smaller or less densely developed area may, because of the relative significance and impact of the facility or development, not be considered a major facility in a larger or more densely developed area with larger or more intense development or facilities.¶¶

(123) "Major transit stop" means:¶¶

(a) Existing and planned transit stations, including light rail stations and other transit transfer stations, except for temporary facilities; Other planned stops designated as major transit stops in a transportation system plan and existing stops which:¶¶

(Aa) Have or are planned for an above average frequency of scheduled, fixed-route service when compared to region wide service. In urban areas of 1,000,000 or more population major transit stops are generally located along routes that have or are planned for 20-15-minute service during the peak hour or better service frequency throughout the day and on weekends; and¶¶

(Bb) Are located in a transit oriented development or within 1/4 one-quarter mile of an area planned and zoned for:¶¶

(iA) Medium or high density residential development; or¶¶

(iiB) Intensive commercial or institutional uses within 1/4 mile of subsection (i) one-quarter mile of land uses in paragraph (A); or¶¶

(iiiC) Uses likely to generate a relatively high level of transit ridership.¶¶

(1324) "Metropolitan area" means the local governments that are responsible for adopting local or regional transportation system plans within a metropolitan planning organization (MPO) boundary. This includes cities, counties, and, in the Portland Metropolitan area, Metro.¶¶

(1425) "Metropolitan Planning Organization (MPO)" means an organization located within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state including such designations made subsequent to the adoption of this rule. The Longview-Kelso-Rainier and Walla Walla

Valley MPOs are not considered MPOs for the purposes of this division.¶

(1526) "Minor transportation improvements" include, but are not limited to, signalization, addition of turn lanes or merge/deceleration lanes on arterial or collector streets, provision of local streets, transportation system management measures, modification of existing interchange facilities within public right of way and design modifications located within an approved corridor. Minor transportation improvements may or may not be listed as planned projects in a TSP where the improvement is otherwise consistent with the TSP. Minor transportation improvements do not include new interchanges; new approach roads within the influence area of an interchange; new intersections on limited access roadways, highways, or expressways; new collector or arterial streets, road realignments or addition of travel lanes.¶

(1627) "ODOT" means the Oregon Department of Transportation.¶

(1728) "Parking Spaces" means on and off street spaces designated for automobile parking in areas planned for industrial, commercial, institutional or public uses. The following are not considered parking spaces for the purposes of OAR 660-012-0045(5)(c): park and ride lots, handicapped benefit district" means a designated area where some of the revenues from parking fees or permits in the designated area are dedicated to public improvements in the area.¶

(29) "Parking mandates" means requirements to include a minimum number of off-street parking spaces as a condition of development or redevelopment, or a fee-in-lieu of providing parking for residential development.¶

(30) "Parking maximums" means limits on the number of off-street parking spaces that can be included in a development.¶

(31) "Parking spaces" means on and off street spaces designated for automobile parking, other than parking spaces reserved for carpools and vanpool, vanpools, or accessible parking for people with disabilities.¶

(1832) "Pedestrian connection facility" means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connection facilities include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges. On developed parcels, pedestrian connection facilities are generally hard surfaced. In parks and natural areas, pedestrian connection facilities may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connection facilities may also include rights of way or easements for future pedestrian improvements.¶

(1933) "Pedestrian district" means a comprehensive plan designation or implementing land use regulations, such as an overlay zone, that establish requirements to provide a safe and convenient pedestrian environment in an area planned for a mix of uses likely to support a relatively high level of pedestrian activity. Such areas include but are not limited to:¶

(a) Lands planned for a mix of commercial or institutional uses near lands planned for medium to high density housing; or¶

(b) Areas with a concentration of employment and retail activity; and¶

(c) Which have or could develop a network of streets and accessways which provide convenient pedestrian circulation.¶

(2034) "Pedestrian plaza" means a small semi-enclosed area usually adjoining a sidewalk or a transit stop which provides a place for pedestrians to sit, stand or rest. They are usually paved with concrete, pavers, bricks or similar material and include seating, pedestrian scale lighting and similar pedestrian improvements. Low walls or planters and landscaping are usually provided to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. Plazas are generally located at a transit stop, building entrance or an intersection and connect directly to adjacent sidewalks, walkways, transit stops and buildings. A plaza including 150-250 square feet would be considered "small."¶

(2135) "Pedestrian scale" means site and building design elements that are dimensionally less than those intended to accommodate automobile traffic, flow and buffering. Examples include ornamental lighting of limited height; bricks, pavers or other modules of paving with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the height of walls; and signage and signpost details that can only be perceived from a short distance.¶

(2236) "People with disabilities" means people who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.¶

(37) "Planning Period" means the twenty-year period beginning with the date of adoption of a TSP to meet the requirements of this rule.¶

(238) "Preliminary Design" means an engineering design which specifies in detail the location and alignment of a planned transportation facility or improvement.¶

(2439) "Priority Transit Corridor" means a corridor which has a high existing or planned level of transit service relative to other transit service in the community, including service frequency and span of service. The corridor may be described as a series of stations when served by high-capacity transit services with widely spaced stations.¶

(40) "Reasonably direct" means either a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.¶

(2541) "Refinement Plan" means an amendment to the transportation system plan, which resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process.¶

(426) "Regional Transportation Plan" or "RTP" means the long-range transportation plan prepared and adopted by a metropolitan planning organization for a metropolitan area as provided for in federal law.¶

(2743) "Roads" means streets, roads, and highways.¶

(2844) "Rural community" means areas defined as resort communities and rural communities in accordance with OAR 660-022-0010(6) and (7). For the purposes of this division, the area need only meet the definitions contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with OAR 660-022-0020.¶

(2945) "Separated or protected bicycle facilities" means bicycle facilities that are physically separated or protected from motorized traffic by barriers that prevent intrusion into the bicycle facility. Physical protection may include parked motor vehicles. Separated or protected bicycle facilities may be unidirectional or two-way. Separated or protected bicycle facilities minimize conflicting traffic at intersections and other vehicular accesses to the street or highway.¶

(46) "Shared parking" means parking spaces used to meet the parking mandates for two or more uses, structures, or parcels of land, to the extent that the owners or operators show the overall demand for parking spaces can be met by the shared parking.¶

(47) "Transit-Oriented Development (TOD)" means a mix of residential, retail and office uses and a supporting network of roads, bicycle and pedestrian ways focused on a major transit stop designed to support a high level of transit use. The key features of transit oriented development include:¶

(a) A mixed-use center at the transit stop, oriented principally to transit riders and pedestrian and bicycle travel from the surrounding area;¶

(b) High density of residential development proximate to the transit stop sufficient to support transit operation and neighborhood commercial uses within the TOD;¶

(c) A network of roads, and bicycle and pedestrian paths to support high levels of pedestrian access within the TOD and high levels of transit use.¶

(3048) "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage, and water systems.¶

(3149) "Transportation System Management Measures" means techniques for increasing the efficiency, safety, capacity, or level of service of a transportation facility without increasing its size. Examples include, but are not limited to, traffic signal improvements, traffic control devices including installing medians and parking removal, channelization, access management, ramp metering, and restriping of high occupancy vehicle (HOV) lanes.¶

(3250) "Transportation Needs" means estimates of the movement of people and goods consistent with acknowledged comprehensive plan and the requirements of this ~~rule~~division. Needs are typically based on projections of future travel demand resulting from a continuation of current trends as modified by policy objectives, including those expressed in Goal 12 and this ~~rule~~division, and attaining the state's goals for greenhouse gas emissions reduction, especially those for avoiding principal reliance on any one mode of transportation.¶

(3351) "Transportation Needs, Local" means needs for movement of people and goods within communities and portions of counties and the need to provide access to local destinations.¶

(3452) "Transportation Needs, Regional" means needs for movement of people and goods between and through communities and accessibility to regional destinations within a metropolitan area, county or associated group of counties.¶

(353) "Transportation Needs, State" means needs for movement of people and goods between and through regions of the state and between the state and other states.¶

(3654) "Transportation Project Development" means implementing the transportation system plan (TSP) by determining the precise location, alignment, and preliminary design of improvements included in the TSP based on site-specific engineering and environmental studies.¶

(3755) "Transportation Service" means a service for moving people and goods, such as intercity bus service and passenger rail service.¶

(3856) "Transportation System Plan (TSP)" means a plan for one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas.¶

(3957) "Urban Area" means lands within an urban growth boundary, two or more contiguous urban growth boundaries, and urban unincorporated communities as defined by OAR 660-022-0010(9). For the purposes of this

division, the area need only meet the definition contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with 660-022-0020.¶

~~(4058)~~ "Unbundled parking" means a requirement that parking spaces for each unit in a development be leased or sold separately from the unit itself. That requirement must include requirements for the parking space(s) to be rented or sold at market rates for comparable local off-street parking, and for the renter of the unit to be able to opt out of renting or buying the parking space(s).¶

~~(59)~~ "Urban Fringe" means:¶

(a) Areas outside the urban growth boundary that are within ~~5~~five miles of the urban growth boundary of an MPO area; and¶

(b) Areas outside the urban growth boundary within ~~2~~two miles of the urban growth boundary of an urban area containing a population greater than 25,000.¶

~~(4160)~~ "Vehicle Miles of Travel (VMT):" means automobile vehicle miles of travel. Automobiles, for purposes of this definition, include automobiles, light trucks, and other similar vehicles used for movement of people. The definition does not include buses, heavy trucks and trips that involve commercial movement of goods. VMT includes trips with an origin and a destination within the MPO boundary and excludes pass through trips (i.e., trips with a beginning and end point outside of the MPO) and external trips (i.e., trips with a beginning or end point outside of the MPO boundary). VMT is estimated prospectively through the use of metropolitan area transportation models.¶

~~(4261)~~ "Walkway" means a hard surfaced area intended and suitable for use by pedestrians, including sidewalks and surfaced portions of accessways.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 195.012, ORS 197.040, ORS 197.712, ORS 197.717, ORS 197.732

ADOPT: 660-012-0011

RULE SUMMARY: This rule provides for local governments in metropolitan areas to use certain rules in the division.

CHANGES TO RULE:

660-012-0011

Applicable Rules

(1) OAR 660-012-0000, OAR 660-012-0005, OAR 660-012-0010, OAR 660-12-0011, OAR 660-12-0050, OAR 660-012-0060, OAR 660-012-0065, and OAR 660-012-0070 apply statewide, where this division is applicable.¶

(2) OAR 660-012-0012 and OAR 660-012-0100 through OAR 660-012-0920 apply to the following local governments:¶

(a) Cities within metropolitan areas;¶

(b) Portions of counties within urban growth boundaries of cities in metropolitan areas; and¶

(c) Metro.¶

(3) OAR 660-012-0010 through OAR 660-012-0055 apply to all local governments other than those listed in section (2) of this rule, where this division is applicable.¶

(4) Cities that otherwise would be required to use rules as provided in section (3) of this rule, may choose to instead adopt a transportation system plan meeting the rules that apply to jurisdictions as provided in section (2) of this rule. Upon acknowledgement of such a transportation system plan, the city shall continue to be subject to these rules in all respects.¶

(5) All cities are either subject to the rules in section (2) or section (3) of this rule, but not both.¶

(6) Counties may have different applicable rules in different parts of the county.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0012

RULE SUMMARY: This rule provides for effective dates and deadlines of some provisions in the division.

CHANGES TO RULE:

660-012-0012

Effective Dates and Transition Period

(1) The rules in this division adopted on [May XX, 2022], and amendments to rules in this division adopted on that date, are effective [June XX, 2022], except as provided in this rule.¶

(2) A city or county adopting, amending, or updating a transportation system plan that is required to meet the requirements as provided in OAR 660-012-0100 may instead use existing requirements as provided in OAR 660-012-0015 if the city or county:¶

(a) Has submitted notice of the proposed change to the comprehensive plan to the department as provided in OAR 660-018-0020 no later than December 31, 2022; or¶

(b) Is amending a transportation system plan to include one or more elements required in OAR 660-012-0100 and the amendment is not a major transportation system plan update as provided in OAR 660-012-0105, and has submitted notice of the proposed change to the comprehensive plan to the department as provided in OAR 660-018-0020 no later than June 30, 2027.¶

(3) Cities, counties, or Metro may choose to submit a work program to set effective dates or alternate deadlines for requirements in lieu of the effective dates or deadlines in sections (4) through (10) of this rule.¶

(a) Cities, counties, or Metro choosing to submit a work program must submit a joint work program that coordinates the actions of all affected jurisdictions in the metropolitan area.¶

(b) A proposed work program must include the following items:¶

(A) A description of work already underway to begin complying with the new requirements of this division as soon as possible;¶

(B) Effective dates or deadlines in this rule that would continue to apply;¶

(C) Proposed dates for accomplishing requirements in lieu of effective dates or deadlines provided in this rule; and¶

(D) A schedule for updating local transportation system plans to comply with new requirements of this division.¶

(c) A proposed work program must demonstrate early progress toward meeting the updated requirements of this division, with at least some work implemented by December 31, 2023, and expected completion of all elements in the work program by June 30, 2027.¶

(d) A work program may not be submitted to the department after December 1, 2022.¶

(e) The director shall review the proposed work program to make a recommendation to the commission as to whether the proposed work program meets the following criteria:¶

(A) Achieves equitable outcomes;¶

(B) Ensures urgent action;¶

(C) Coordinates actions across jurisdictions within the metropolitan area;¶

(D) Coordinates with work required as provided in OAR 660-044-0100;¶

(E) Sequences elements of the work program into a logical progression; and¶

(F) Considers availability of funding and other resources to complete the work.¶

(f) The commission shall hold a hearing to review the proposed work program and the director's recommendation. If the commission finds that the proposed work program is complete and meets the criteria in subsection (e), then the commission shall issue an order approving the work program; otherwise, the commission shall remand the proposed work program with specific directions for changes needed. Upon approval by the commission, the dates in the work program supersede the effective dates or deadlines in this rule.¶

(g) The commission may modify dates in a work program at any time as necessary to achieve the purposes of this division.¶

(4) Cities and counties must adopt an update to their transportation system plan as provided in OAR 660-012-0100 by June 30, 2026.¶

(5) The provisions of OAR 660-012-0215 requiring the adoption of multiple transportation performance standards take effect upon the date of adoption of a major or minor transportation system plan update as provided in OAR 660-012-0105.¶

(6) A city or county that is subject to the requirements of OAR 660-012-0310(2) must submit a study of climate friendly areas as provided in OAR 660-012-0315(4) and (5) by June 30, 2023. The city or county must adopt land use requirements for climate friendly areas and a climate friendly comprehensive plan element by June 30, 2024, as provided in OAR 660-012-0315(6).¶

(7) Metro shall amend the urban growth management functional plan in conjunction with its next growth management analysis under ORS 197.296 and no later than December 31, 2024, to require local government

adoption of Region 2040 centers and land use regulations as described in the acknowledged urban growth management functional plan. Within the Metro urban growth boundary, a county with planning jurisdiction in unincorporated areas provided with urban water, sanitary sewer, stormwater, and transportation services, or a city shall comply with the adopted requirements of the urban growth management functional plan by December 31, 2025.

(8) Cities and counties must ensure land use regulations meet the requirements of OAR 660-012-0330 no later than the date of adoption of a major or minor transportation system plan update as provided in OAR 660-012-0105.

(9) Cities and counties must adopt comprehensive plan amendments and land use regulations meeting requirements as provided in OAR 660-012-0400 through OAR 660-012-0450 no later than March 31, 2023, except as provided below. If a city or county has not done so, it may not apply parking mandates after that date.

(a) Cities and counties required to adopt parking maximums under OAR 660-012-0415 must do so when updating their transportation system plan.

(b) Cities and counties that pass population thresholds in OAR 660-012-0410, OAR 660-012-0415, or OAR 660-012-0450 must adopt comprehensive plan amendments and land use regulations meeting requirements within 12 months of passing those population thresholds.

(c) If cities and counties adopt an approach in OAR 660-012-0445, policies must take effect no later than June 30, 2023.

(d) Cities and counties implementing an approach in OAR 660-012-0435 shall do so concurrently with adoption of any climate friendly area under OAR 660-012-0320.

(10) Cities and counties choosing to report on the share of on-street parking spaces that are priced as provided in OAR 660-012-0450(1)(B) must:

(a) Demonstrate at least five percent of on-street parking spaces are priced by September 30, 2023; and

(b) Demonstrate at least 10 percent of on-street parking spaces are priced by September 30, 2025.

(11) Cities and counties with voter-approved bond-funded projects where the election occurred before January 1, 2022 may use approved bond funding as a factor when prioritizing projects in an unconstrained project list as provided in OAR 660-012-0170(4).

(12) The provisions of OAR 660-012-0310(2)(a) and (b) take effect June 30, 2023.

(13) Cities and counties must implement the requirements for electric vehicle charging as provided in OAR 660-012-0410 by March 31, 2023.

(14) Cities and counties must apply OAR 660-012-0430 and 660-012-0440 to development applications submitted after December 31, 2022.

(15) Requirements as provided in OAR 660-012-0900 are modified as follows:

(a) The first reporting year for the reporting requirements as provided in OAR 660-012-0900 is 2022, with reports due no later than May 31, 2023.

(b) Cities and counties otherwise required to complete a major report for the 2022 reporting year as provided in OAR 660-012-0900 may delay submission of the major report until the 2023 reporting year. A city or county electing to do so must submit a minor report for the 2022 reporting year and cite this provision in that report.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

AMEND: 660-012-0015

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0015

Preparation and Coordination of Transportation System Plans ¶¶

(1) ODOT shall prepare, adopt and amend a state TSP in accordance with ORS 184.618, its program for state agency coordination certified under ORS 197.180, and OAR 660-012-0030, 660-012-0035, 660-012-0050, 660-012-0065 and 660-012-0070. The state TSP shall identify a system of transportation facilities and services adequate to meet identified state transportation needs:¶¶

(a) The state TSP shall include the state transportation policy plan, modal systems plans, and transportation facility plans as set forth in OAR chapter 731, division 15;¶¶

(b) State transportation project plans shall be compatible with acknowledged comprehensive plans as provided for in OAR chapter 731, division 15. Disagreements between ODOT and affected local governments shall be resolved in the manner established in that division.¶¶

(2) ~~MPOs and~~ Counties shall prepare and amend regional TSPs in compliance with this division. ~~MPOs shall prepare regional TSPs for facilities of regional significance within their jurisdiction.~~ Counties shall prepare regional TSPs for all other areas and facilities:¶¶

(a) Regional TSPs shall establish a system of transportation facilities and services adequate to meet identified regional transportation needs and shall be consistent with adopted elements of the state TSP;¶¶

(b) Where elements of the state TSP have not been adopted, the ~~MPO or~~ county shall coordinate the preparation of the regional TSP with ODOT to assure that state transportation needs are accommodated;¶¶

~~(c) Regional TSPs prepared by MPOs other than metropolitan service districts shall be adopted by the counties and cities within the jurisdiction of the MPO. Metropolitan service districts shall adopt a regional TSP for areas within their jurisdiction;¶¶~~

~~(d) Regional TSPs prepared by counties shall be adopted by the county.¶¶~~

(3) Cities and counties shall prepare, adopt and amend local TSPs for lands within their planning jurisdiction in compliance with this division:¶¶

(a) Local TSPs shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with regional TSPs and adopted elements of the state TSP;¶¶

(b) Where the regional TSP or elements of the state TSP have not been adopted, the city or county shall coordinate the preparation of the local TSP with the regional transportation planning body and ODOT to assure that regional and state transportation needs are accommodated.¶¶

(4) Cities and counties shall adopt regional and local TSPs required by this division as part of their comprehensive plans. Transportation financing programs required by OAR 660-012-0040 may be adopted as a supporting document to the comprehensive plan.¶¶

(5) The preparation of TSPs shall be coordinated with affected state and federal agencies, local governments, special districts, and private providers of transportation services.¶¶

(6) Mass transit, transportation, airport, and port districts shall participate in the development of TSPs for those transportation facilities and services they provide. These districts shall prepare and adopt plans for transportation facilities and services they provide. Such plans shall be consistent with and adequate to carry out relevant portions of applicable regional and local TSPs. Cooperative agreements executed under ORS 197.185.020(2) shall include the requirement that mass transit, transportation, airport, and port districts adopt a plan consistent with the requirements of this section.¶¶

(7) Where conflicts are identified between proposed regional TSPs and acknowledged comprehensive plans, representatives of affected local governments shall meet to discuss means to resolve the conflicts. These may include:¶¶

(a) Changing the draft TSP to eliminate the conflicts; or¶¶

(b) Amending acknowledged comprehensive plan provision to eliminate the conflicts;¶¶

~~(c) For MPOs which are not metropolitan service districts, if conflicts persist between regional TSPs and acknowledged comprehensive plans after efforts to achieve compatibility, an affected local government may petition the Commission to resolve the dispute.~~

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 184.618, ORS 195.025, ORS 197.040, ORS 197.180, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717

REPEAL: 660-012-0016

RULE SUMMARY: Repealing rule.

CHANGES TO RULE:

660-012-0016

Coordination with Federally-Required Regional Transportation Plans in Metropolitan Areas

(1) In metropolitan areas, local governments shall prepare, adopt, amend and update transportation system plans required by this division in coordination with regional transportation plans (RTPs) prepared by MPOs required by federal law. Insofar as possible, regional transportation system plans for metropolitan areas shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division. Nothing in this rule is intended to make adoption or amendment of a regional transportation plan by a metropolitan planning organization a land use decision under Oregon law.¶¶

(2) When an MPO adopts or amends a regional transportation plan that relates to compliance with this division, the affected local governments shall review the adopted plan or amendment and either:¶¶

(a) Make a finding that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional and local transportation system plan and comprehensive plan and compliant with applicable provisions of this division; or¶¶

(b) Adopt amendments to the relevant regional or local transportation system plan that make the regional transportation plan and the applicable transportation system plans consistent with one another and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the RTP amendment or update and shall be adopted no later than one year from the adoption of the RTP amendment or update or according to a work plan approved by the commission. A plan amendment is "initiated" for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR chapter 660, division 18.¶¶

(c) In the Portland Metropolitan area, compliance with this section shall be accomplished by Metro through adoption of required findings or an amendment to the regional transportation system plan.¶¶

(3) Adoption or amendment of a regional transportation plan relates to compliance with this division for purposes of section (2) if it does one or more of the following:¶¶

(a) Changes plan policies;¶¶

(b) Adds or deletes a project from the list of planned transportation facilities, services or improvements or from the financially-constrained project list required by federal law;¶¶

(c) Modifies the general location of a planned transportation facility or improvement;¶¶

(d) Changes the functional classification of a transportation facility; or¶¶

(e) Changes the planning period or adopts or modifies the population or employment forecast or allocation upon which the plan is based.¶¶

(4) The following amendments to a regional transportation plan do not relate to compliance with this division for purposes of section (2):¶¶

(a) Adoption of an air quality conformity determination;¶¶

(b) Changes to a federal revenue projection;¶¶

(c) Changes to estimated cost of a planned transportation project; or¶¶

(d) Deletion of a project from the list of planned projects where the project has been constructed or completed.¶¶

(5) Adoption or amendment of a regional transportation plan that extends the planning period beyond that specified in the applicable acknowledged comprehensive plan or regional transportation system plan is consistent with the requirements of this rule where the following conditions are met:¶¶

(a) The future year population forecast is consistent with those issued or adopted under ORS 195.033 or 195.036;¶¶

(b) Land needed to accommodate future urban density population and employment and other urban uses is identified in a manner consistent with Goal 14 and relevant rules;¶¶

(c) Urban density population and employment are allocated to designated centers and other identified areas to provide for implementation of the metropolitan area's integrated land use and transportation plan or strategy; and¶¶

(d) Urban density population and employment or other urban uses are allocated to areas outside of an acknowledged urban growth boundary only where:¶¶

(A) The allocation is done in conjunction with consideration by local governments of possible urban growth boundary amendments consistent with Goal 14 and relevant rules; and¶¶

(B) The RTP clearly identifies the proposed UGB amendments and any related projects as illustrative and subject to further review and approval by the affected local governments.

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 195.012, 197.040, 197.712, 197.717, 197.732~~

AMEND: 660-012-0035

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0035

Evaluation and Selection of Transportation System Alternatives ¶¶

(1) The TSP shall be based upon evaluation of potential impacts of system alternatives that can reasonably be expected to meet the identified transportation needs in a safe manner and at a reasonable cost with available technology. The following shall be evaluated as components of system alternatives:¶¶

(a) Improvements to existing facilities or services;¶¶
(b) New facilities and services, including different modes or combinations of modes that could reasonably meet identified transportation needs;¶¶

(c) Transportation system management measures;¶¶

(d) Demand management measures; and¶¶

(e) A no-build system alternative required by the National Environmental Policy Act of 1969 or other laws.¶¶

(2) Local governments in MPO areas of larger than 1,000,000 population shall, and other governments may also, evaluate alternative land use designations, densities, and design standards to meet local and regional transportation needs. Local governments preparing such a strategy shall consider:¶¶

(a) Increasing residential densities and establishing minimum residential densities within one quarter mile of transit lines, major regional employment areas, and major regional retail shopping areas;¶¶

(b) Increasing allowed densities in new commercial office and retail developments in designated community centers;¶¶

(c) Designating lands for neighborhood shopping centers within convenient walking and cycling distance of residential areas; and¶¶

(d) Designating land uses to provide a better balance between jobs and housing considering:¶¶

(A) The total number of jobs and total of number of housing units expected in the area or subarea;¶¶

(B) The availability of affordable housing in the area or subarea; and¶¶

(C) Provision of housing opportunities in close proximity to employment areas.¶¶

(3) The following standards shall be used to evaluate and select alternatives:¶¶

(a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;¶¶

(b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;¶¶

(c) The transportation system shall minimize adverse economic, social, environmental and energy consequences;¶¶

(d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation; and¶¶

(e) The transportation system shall avoid principal reliance on any one mode of transportation by increasing transportation choices to reduce principal reliance on the automobile. In MPO areas this shall be accomplished by selecting transportation alternatives which meet the requirements in section (4) of this rule.¶¶

(4) In MPO areas, regional and local TSPs shall be designed to achieve adopted standards for increasing transportation choices and reducing reliance on the automobile. Adopted standards are intended as means of measuring progress of metropolitan areas towards developing and implementing transportation systems and land use plans that increase transportation choices and reduce reliance on the automobile. It is anticipated that metropolitan areas will accomplish reduced reliance by changing land use patterns and transportation systems so that walking, cycling, and use of transit are highly convenient and so that, on balance, people need to and are likely to drive less than they do today.¶¶

(5) MPO areas shall adopt standards to demonstrate progress towards increasing transportation choices and reducing automobile reliance as provided for in this rule:¶¶

(a) The commission shall approve standards by order upon demonstration by the metropolitan area that:¶¶

(A) Achieving the standard will result in a reduction in reliance on automobiles;¶¶

(B) Achieving the standard will accomplish a significant increase in the availability or convenience of alternative modes of transportation;¶¶

(C) Achieving the standard is likely to result in a significant increase in the share of trips made by alternative modes, including walking, bicycling, ridesharing and transit;¶¶

(D) VMT per capita is unlikely to increase by more than five percent; and¶¶

(E) The standard is measurable and reasonably related to achieving the goal of increasing transportation choices and reducing reliance on the automobile as described in OAR 660-012-0000.¶

(b) In reviewing proposed standards for compliance with subsection (a), the commission shall give credit to regional and local plans, programs, and actions implemented since 1990 that have already contributed to achieving the objectives specified in paragraphs (A)-(E) above;¶

(c) If a plan using a standard, approved pursuant to this rule, is expected to result in an increase in VMT per capita, then the cities and counties in the metropolitan area shall prepare and adopt an integrated land use and transportation plan including the elements listed in paragraphs (A)-(E) below. Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years of the approval of the standard.¶

(A) Changes to land use plan designations, densities, and design standards listed in subsections (2)(a)-(d);¶

(B) A transportation demand management plan that includes significant new transportation demand management measures;¶

(C) A public transit plan that includes a significant expansion in transit service;¶

(D) Policies to review and manage major roadway improvements to ensure that their effects are consistent with achieving the adopted strategy for reduced reliance on the automobile, including policies that provide for the following:¶

(i) An assessment of whether improvements would result in development or travel that is inconsistent with what is expected in the plan;¶

(ii) Consideration of alternative measures to meet transportation needs;¶

(iii) Adoption of measures to limit possible unintended effects on travel and land use patterns including access management, limitations on subsequent plan amendments, phasing of improvements, etc.; and¶

(iv) For purposes of this section a "major roadway expansion" includes new arterial roads or streets and highways, the addition of travel lanes, and construction of interchanges to a limited access highway¶

(E) Plan and ordinance provisions that meet all other applicable requirements of this division.¶

(d) Standards may include but are not limited to:¶

(A) Modal share of alternative modes, including walking, bicycling, and transit trips;¶

(B) Vehicle hours of travel per capita;¶

(C) Vehicle trips per capita;¶

(D) Measures of accessibility by alternative modes (i.e. walking, bicycling and transit); or¶

(E) The Oregon Benchmark for a reduction in peak hour commuting by single occupant vehicles.¶

(e) Metropolitan areas shall adopt TSP policies to evaluate progress towards achieving the standard or standards adopted and approved pursuant to this rule. Such evaluation shall occur at regular intervals corresponding with federally required updates of the regional transportation plan. This shall include monitoring and reporting of VMT per capita.¶

(6) A metropolitan area may also accomplish compliance with requirements of subsection (3)(e), sections (4) and (5) by demonstrating to the commission that adopted plans and measures are likely to achieve a five percent reduction in VMT per capita over the 20-year planning period. The commission shall consider and act on metropolitan area requests under this section by order. A metropolitan area that receives approval under this section shall adopt interim benchmarks for VMT reduction and shall evaluate progress in achieving VMT reduction at each update of the regional transportation system plan.¶

(7) Regional and local TSPs shall include benchmarks to assure satisfactory progress towards meeting the approved standard or standards adopted pursuant to this rule at regular intervals over the planning period. MPOs and local governments shall evaluate progress in meeting benchmarks at each update of the regional transportation plan. Where benchmarks are not met, the relevant TSP shall be amended to include new or additional efforts adequate to meet the requirements of this rule.¶

(8) The commission shall, at regular intervals, evaluate the results of efforts to achieve the reduction in VMT and the effectiveness of approved plans and standards in achieving the objective of increasing transportation choices and reducing reliance on the automobile.¶

(9) The following standards shall be used to evaluate and select alternatives:¶

(a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;¶

(b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;¶

(c) The transportation system shall minimize adverse economic, social, environmental and energy consequences;¶

(d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation; and¶

(e) The transportation system shall avoid principal reliance on any one mode of transportation by increasing

transportation choices to reduce principal reliance on the automobile.¶

(3) Where existing and committed transportation facilities and services have adequate capacity to support the land uses in the acknowledged comprehensive plan, the local government shall not be required to evaluate alternatives as provided in this rule.¶

(104) Transportation uses or improvements listed in OAR 660-012-0065(3)(d) to (g) and (o) and located in an urban fringe may be included in a TSP only if the ~~improvement~~ project identified in the ~~T~~ransportation ~~S~~ystem ~~P~~lan as described in section (126) of this rule, will not significantly reduce peak hour travel time for the route as determined pursuant to section (115) of this rule, or the jurisdiction determines that the following alternatives can not reasonably satisfy the purpose of the improvement project:¶

(a) Improvements to transportation facilities and services within the urban growth boundary;¶

(b) Transportation system management measures that do not significantly increase capacity; or¶

(c) Transportation demand management measures. The jurisdiction needs only to consider alternatives that are safe and effective, consistent with applicable standards and that can be implemented at a reasonable cost using available technology.¶

(115) An ~~improvement~~ project significantly reduces peak hour travel time when, based on recent data, the time to travel the route is reduced more than 15 percent during weekday peak hour conditions over the length of the route located within the urban fringe. For purposes of measuring travel time, a route shall be identified by the predominant traffic flows in the project area.¶

(126) A "transportation improvement project" described in section (104) of this rule:¶

(a) Is intended to solve all of the reasonably foreseeable transportation problems within a general geographic location, within the planning period; and¶

(b) Has utility as an independent transportation project.

Statutory/Other Authority: ORS 197.040, ORS 197.245

Statutes/Other Implemented: ORS 195.025, ORS 197.040, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717

AMEND: 660-012-0045

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0045

Implementation of the Transportation System Plan ¶

(1) Each local government shall amend its land use regulations to implement the TSP.¶

(a) The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the TSP and, under ordinary circumstances do not have a significant impact on land use:¶

(A) Operation, maintenance, and repair of existing transportation facilities identified in the TSP, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals;¶

(B) Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;¶

(C) Uses permitted outright under ORS 215.213(1)(j)-(m) and 215.283(1)(h)-(k), consistent with the provisions of OAR 660-012-0065; and¶

(D) Changes in the frequency of transit, rail and airport services.¶

(b) To the extent, if any, that a transportation facility, service or improvement concerns the application of a comprehensive plan provision or land use regulation, it may be allowed without further land use review if it is permitted outright or if it is subject to standards that do not require interpretation or the exercise of factual, policy or legal judgment;¶

(c) In the event that a transportation facility, service or improvement is determined to have a significant impact on land use or to concern the application of a comprehensive plan or land use regulation and to be subject to standards that require interpretation or the exercise of factual, policy or legal judgment, the local government shall provide a review and approval process that is consistent with OAR 660-012-0050. To facilitate implementation of the TSP, each local government shall amend its land use regulations to provide for consolidated review of land use decisions required to permit a transportation project.¶

(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors, and sites for their identified functions. Such regulations shall include:¶

(a) Access control measures, for example, driveway and public road spacing, median control and signal spacing standards, which are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities;¶

(b) Standards to protect future operation of roads, transitways and major transit corridors;¶

(c) Measures to protect public use airports by controlling land uses within airport noise corridors and imaginary surfaces, and by limiting physical hazards to air navigation;¶

(d) A process for coordinated review of future land use decisions affecting transportation facilities, corridors or sites;¶

(e) A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites;¶

(f) Regulations to provide notice to public agencies providing transportation facilities and services, MPOs, and ODOT of:¶

(A) Land use applications that require public hearings;¶

(B) Subdivision and partition applications;¶

(C) Other applications which affect private access to roads; and¶

(D) Other applications within airport noise corridors and imaginary surfaces which affect airport operations; and¶

(g) Regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and performance standards of facilities identified in the TSP.¶

(3) Local governments shall adopt land use or subdivision regulations for urban areas and rural communities as set forth below. The purposes of this section are to provide for safe and convenient pedestrian, bicycle and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel.¶

(a) Bicycle parking facilities as part of new multi-family residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots;¶

(b) On-site facilities shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Single-family residential developments shall generally include streets and accessways. Pedestrian circulation through parking lots should generally be provided in the form of accessways.¶

(A) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers;¶

(B) Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along arterials, collectors and most local streets in urban areas, except that sidewalks are not required along controlled access roadways, such as freeways;¶

(C) Cul-de-sacs and other dead-end streets may be used as part of a development plan, consistent with the purposes set forth in this section;¶

(D) Local governments shall establish their own standards or criteria for providing streets and accessways consistent with the purposes of this section. Such measures may include but are not limited to: standards for spacing of streets or accessways; and standards for excessive out-of-direction travel;¶

(E) Streets and accessways need not be required where one or more of the following conditions exist:¶

(i) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;¶

(ii) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or¶

(iii) Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.¶

(c) Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along arterials and major collectors;¶

(d) For purposes of subsection (b) "safe and convenient" means bicycle and pedestrian routes, facilities and improvements which:¶

(A) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;¶

(B) Provide an accessible and reasonably direct route of travel between destinations such as between a transit stop and a store; and¶

(C) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the ~~optimum~~ most common trip length of pedestrians is generally ~~1/4 to 1/2~~ under one-half mile.¶

(e) Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.¶

(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in subsections (a)-(g) below:¶

(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate;¶

(b) New retail, office, and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in paragraphs (A) and (B) below.¶

(A) Accessible Walkways shall be provided connecting building entrances and streets adjoining the site;¶

(B) ~~Pedestrian~~ Accessible pedestrian facilities ~~connections~~ ng to adjoining properties shall be provided except where such a connection is impracticable as provided for in ~~OSAR 660-012-0045~~ paragraph (3)(b)(E). Pedestrian ~~connection~~ facilities shall connect the on-site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;¶

(C) In addition to paragraphs (A) and (B) above, on sites at major transit stops provide the following:¶

(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;¶

(ii) An accessible and reasonably direct pedestrian ~~connection~~ facility between the transit stop and building entrances on the site;¶

(iii) A transit passenger landing pad accessible to ~~disabled person~~ people with disabilities;¶

(iv) An easement or dedication for a passenger shelter if requested by the transit provider; and¶

(v) Lighting at the transit stop.¶

(c) Local governments may implement (4)(b)(A) and (B) above through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of (4)(b)(C) above;¶

(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;¶

(e) Existing development shall be allowed to redevelop a portion of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate;¶

(f) Road systems for new development shall be provided that can be adequately served by transit, including provision of pedestrian access to existing and identified future transit routes. This shall include, where appropriate, separate accessways to minimize travel distances;¶

(g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit.¶

~~(5) In MPO areas, local governments shall adopt land use and subdivision regulations to reduce reliance on the automobile which:¶~~

~~(a) Allow transit-oriented developments (TODs) on lands along transit routes;¶~~

~~(b) Implements a demand management program to meet the measurable standards set in the TSP in response to OAR 660-012-0035(4);¶~~

~~(c) Implements a parking plan which:¶~~

~~(A) Achieves a 10 percent reduction in the number of parking spaces per capita in the MPO area over the planning period. This may be accomplished through a combination of restrictions on development of new parking spaces and requirements that existing parking spaces be redeveloped to other uses;¶~~

~~(B) Aids in achieving the measurable standards set in the TSP in response to OAR 660-012-0035(4);¶~~

~~(C) Includes land use and subdivision regulations setting minimum and maximum parking requirements in appropriate locations, such as downtowns, designated regional or community centers, and transit-oriented developments; and¶~~

~~(D) Is consistent with demand management programs, transit-oriented development requirements and planned transit service.¶~~

~~(d) As an alternative to (c) above, local governments in an MPO may instead revise ordinance requirements for parking as follows:¶~~

~~(A) Reduce minimum off-street parking requirements for all non-residential uses from 1990 levels;¶~~

~~(B) Allow provision of on-street parking, long-term lease parking, and shared parking to meet minimum off-street parking requirements;¶~~

~~(C) Establish off-street parking maximums in appropriate locations, such as downtowns, designated regional or community centers, and transit-oriented developments;¶~~

~~(D) Exempt structured parking and on-street parking from parking maximums;¶~~

~~(E) Require that parking lots over 3 acres in size provide street-like features along major driveways (including curbs, sidewalks, and street trees or planting strips); and¶~~

~~(F) Provide for designation of residential parking districts.¶~~

~~(e) Require all major industrial, institutional, retail and office developments to provide either a transit stop on site or connection to a transit stop along a transit trunk route when the transit operator requires such an improvement.¶~~

~~(6) In developing a bicycle and pedestrian circulation plan as required by OAR 660-012-0020(2)(d), local governments shall identify improvements to facilitate bicycle and pedestrian trips to meet local travel needs in developed areas. Appropriate improvements should provide for more direct, convenient, accessible, and safer bicycle or pedestrian travel within and between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops). Specific measures include, for example, constructing walkways between cul-de-sacs and adjacent roads, providing walkways between buildings, and providing direct access between adjacent uses.¶~~

~~(76) Local governments shall establish standards for local streets and accessways that minimize pavement width and total right-of-way consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Notwithstanding section (1) or (3) of this rule, local street standards adopted to meet this requirement need not be adopted as land use regulations.~~

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

AMEND: 660-012-0060

RULE SUMMARY: Changes to clearly allow use of a range of transportation system performance standards.

CHANGES TO RULE:

660-012-0060

Plan and Land Use Regulation Amendments ¶¶

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:¶¶

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);¶¶

(b) Change standards implementing a functional classification system; or¶¶

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.¶¶

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;¶¶

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or¶¶

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.¶¶

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the ~~identified function, capacity, and~~ performance standards of the facility measured or projected at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in subsections (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.¶¶

(a) Adopting measures that demonstrate allowed land uses are consistent with the ~~planned function, capacity, and~~ performance standards of the transportation facility.¶¶

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; ~~s.~~ Such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.¶¶

(c) Amending the TSP to modify the ~~planned function, capacity or~~ performance standards of the transportation facility.¶¶

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.¶¶

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:¶¶

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;¶¶

(B) The providers of facilities being improved at other locations provide written statements of approval; and¶¶

(C) The local jurisdictions where facilities are being improved provide written statements of approval.¶¶

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent

with the ~~function, capacity and~~ performance standards of the facility where:¶

- (a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the ~~identified function, capacity or~~ performance standard for that facility by the end of the planning period identified in the adopted TSP;¶
- (b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;¶
- (c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and¶
- (d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.¶
- (4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.¶
- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.¶
- (b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:¶
 - (A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.¶
 - (B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.¶
 - (C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.¶
 - (D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.¶
 - (E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.¶
- (c) Within interstate interchange areas, the improvements included in paragraphs (b)(A)-(C) are considered planned facilities, improvements and services, except where:¶
 - (A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or¶
 - (B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.¶
- (d) As used in this section and section (3):¶
 - (A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;¶
 - (B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and¶
 - (C) Interstate interchange area means:¶
 - (i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or¶
 - (ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.¶

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).¶

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.¶

(6) ~~If a local government is~~ determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in sections (1) and (2), using a performance standard based on projected levels of motor vehicle traffic, then the local governments shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in subsections (a)-(d) below;¶

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% percent fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% percent reduction allowed for by this subsection shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;¶

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% percent reduction required in subsection (a) ~~above~~;¶

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in subsection (a) or (b) ~~above~~, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in OAR 660-012-0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with 660-012-0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure compliance with these rule requirements at the time of development approval; and¶

(d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to subsection (a) ~~above~~. The Commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.¶

(7) Amendments to acknowledged comprehensive plans and land use regulations which meet all of the criteria listed in subsections (a)-(c) ~~below~~ shall include an amendment to the comprehensive plan, transportation system plan, the adoption of a local street plan, access management plan, future street plan or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in OAR 660-012-0020(2)(b) and 660-012-0045(3):¶

(a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;¶

(b) The local government has not adopted a TSP or local street plan which complies with OAR 660-012-0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 61, Section 3.08.110 of the ~~Urban Growth Management~~ Regional Transportation Functional Plan; and¶

(c) The proposed amendment would significantly affect a transportation facility as provided in section (1).¶

(8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:¶

(a) Any one of the following:¶

(A) An existing central business district or downtown;¶

(B) An area designated as a central city, regional center, town center or main street in the Portland Metro 2040

Regional Growth Concept;¶¶

(C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or¶¶

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.¶¶

(b) An area other than those listed in subsection (a) above which includes or is planned to include the following characteristics:¶¶

(A) A concentration of a variety of land uses in a well-defined area, including the following:¶¶

(i) Medium to high density residential development (12 or more units per acre);¶¶

(ii) Offices or office buildings;¶¶

(iii) Retail stores and services;¶¶

(iv) Restaurants; and¶¶

(v) Public open space or private open space which is available for public use, such as a park or plaza.¶¶

(B) Generally include civic or cultural uses;¶¶

(C) A core commercial area where multi-story buildings are permitted;¶¶

(D) Buildings and building entrances oriented to streets;¶¶

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;¶¶

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;¶¶

(G) One or more transit stops (in urban areas with fixed route transit service); and¶¶

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.¶¶

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.¶¶

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;¶¶

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and¶¶

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.¶¶

(10) Notwithstanding sections (1) and (2) of this rule, a local government may amend a functional plan, a comprehensive plan, or a land use regulation without applying performance standards related to motor vehicle traffic congestion (e.g. volume to capacity ratio or V/C), delay or travel time if the amendment meets the requirements of subsection (a) of this section. This section does not exempt a proposed amendment from other transportation performance standards or policies that may apply including, but not limited to, safety for all modes, network connectivity for all modes (e.g. sidewalks, bicycle lanes) and accessibility for freight vehicles of a size and frequency required by the development.¶¶

(a) A proposed amendment qualifies for this section if it:¶¶

(A) Is a map or text amendment affecting only land entirely within a multimodal mixed-use area (MMA); and¶¶

(B) Is consistent with the definition of an MMA and consistent with the function of the MMA as described in the findings designating the MMA.¶¶

(b) For the purpose of this rule, "multimodal mixed-use area" or "MMA" means an area:¶¶

(A) With a boundary adopted by a local government as provided in subsection (d) or (e) of this section and that has been acknowledged;¶¶

(B) Entirely within an urban growth boundary;¶¶

(C) With adopted plans and development regulations that allow the uses listed in paragraphs (8)(b)(A) through (C) of this rule and that require new development to be consistent with the characteristics listed in paragraphs

(8)(b)(D) through (H) of this rule;¶¶

(D) With land use regulations that do not require the provision of off-street parking, or regulations that require lower levels of off-street parking than required in other areas and allow flexibility to meet the parking requirements (e.g. count on-street parking, allow long-term leases, allow shared parking); and¶¶

(E) Located in one or more of the categories below:¶¶

(i) At least one-quarter mile from any ramp terminal intersection of existing or planned interchanges;¶¶

(ii) Within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or¶¶

(iii) Within one-quarter mile of a ramp terminal intersection of an existing or planned interchange if the mainline facility provider has provided written concurrence with the MMA designation as provided in subsection (c) of this section.¶¶

(c) When a mainline facility provider reviews an MMA designation as provided in subparagraph (b)(E)(iii) of this section, the provider must consider the factors listed in paragraph (A) of this subsection.¶

(A) The potential for operational or safety effects to the interchange area and the mainline highway, specifically considering:¶

(i) Whether the interchange area has a crash rate that is higher than the statewide crash rate for similar facilities;¶

(ii) Whether the interchange area is in the top ten percent of locations identified by the safety priority index system (SPIS) developed by ODOT; and¶

(iii) Whether existing or potential future traffic queues on the interchange exit ramps extend onto the mainline highway or the portion of the ramp needed to safely accommodate deceleration.¶

(B) If there are operational or safety effects as described in paragraph (A) of this subsection, the effects may be addressed by an agreement between the local government and the facility provider regarding traffic management plans favoring traffic movements away from the interchange, particularly those facilitating clearing traffic queues on the interchange exit ramps.¶

(d) A local government may designate an MMA by adopting an amendment to the comprehensive plan or land use regulations to delineate the boundary following an existing zone, multiple existing zones, an urban renewal area, other existing boundary, or establishing a new boundary. The designation must be accompanied by findings showing how the area meets the definition of an MMA. Designation of an MMA is not subject to the requirements in sections (1) and (2) of this rule.¶

(e) A local government may designate an MMA on an area where comprehensive plan map designations or land use regulations do not meet the definition, if all of the other elements meet the definition, by concurrently adopting comprehensive plan or land use regulation amendments necessary to meet the definition. Such amendments are not subject to performance standards related to motor vehicle traffic congestion, delay or travel time.¶

(11) A local government may approve an amendment with partial mitigation as provided in section (2) of this rule if the amendment complies with subsection (a) of this section, the amendment meets the balancing test in subsection (b) of this section, and the local government coordinates as provided in subsection (c) of this section.¶

(a) The amendment must meet paragraphs (A) and (B) of this subsection or meet paragraph (D) of this subsection.¶

(A) Create direct benefits in terms of industrial or traded-sector jobs created or retained by limiting uses to industrial or traded-sector industries.¶

(B) Not allow retail uses, except limited retail incidental to industrial or traded sector development, not to exceed five percent of the net developable area.¶

(C) For the purpose of this section:¶

(i) "Industrial" means employment activities generating income from the production, handling or distribution of goods including, but not limited to, manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment and research and development.¶

(ii) "Traded-sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists.¶

~~(D) Notwithstanding paragraphs (A) and (B) of this subsection, an amendment complies with subsection (a) if all of the following conditions are met:¶~~

~~(i) The amendment is within a city with a population less than 10,000 and outside of a Metropolitan Planning Organization.¶~~

~~(ii) The amendment would provide land for "Other Employment Use" or "Prime Industrial Land" as those terms are defined in OAR 660-009-0005.¶~~

~~(iii) The amendment is located outside of the Willamette Valley as defined in ORS 215.010.¶~~

~~(E) The provisions of paragraph (D) of this subsection are repealed on January 1, 2017.¶~~

(b) A local government may accept partial mitigation only if the local government determines that the benefits outweigh the negative effects on local transportation facilities and the local government receives from the provider of any transportation facility that would be significantly affected written concurrence that the benefits outweigh the negative effects on their transportation facilities. If the amendment significantly affects a state highway, then ODOT must coordinate with the Oregon Business Development Department regarding the economic and job creation benefits of the proposed amendment as defined in subsection (a) of this section. The requirement to obtain concurrence from a provider is satisfied if the local government provides notice as required by subsection (c) of this section and the provider does not respond in writing (either concurring or non-concurring) within ~~forty-five~~45 days.¶

(c) A local government that proposes to use this section must coordinate with Oregon Business Development Department, Department of Land Conservation and Development, area commission on transportation, metropolitan planning organization, and transportation providers and local governments directly impacted by the proposal to allow opportunities for comments on whether the proposed amendment meets the definition of economic development, how it would affect transportation facilities and the adequacy of proposed mitigation.

Informal consultation is encouraged throughout the process starting with pre-application meetings. Coordination has the meaning given in ORS 197.015 and Goal 2 and must include notice at least 45 days before the first evidentiary hearing. Notice must include the following:¶¶

(A) Proposed amendment.¶¶

(B) Proposed mitigating actions from section (2) of this rule.¶¶

(C) Analysis and projections of the extent to which the proposed amendment in combination with proposed mitigating actions would fall short of being consistent with the ~~function, capacity, and performance~~ standards of transportation facilities.¶¶

(D) Findings showing how the proposed amendment meets the requirements of subsection (a) of this section.¶¶

(E) Findings showing that the benefits of the proposed amendment outweigh the negative effects on transportation facilities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 195.025, ORS 197.040, ORS 197.230, ORS 197.245, ORS 197.610 - 197.625, ORS 197.628 - 197.646, ORS 197.712, ORS 197.717, ORS 197.732, ORS 197.798

ADOPT: 660-012-0100

RULE SUMMARY: This rule provides for transportation system plan requirements for local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0100

Transportation System Plans in Metropolitan Areas

(1) Cities shall develop and adopt a transportation system plan. A transportation system plan includes the following elements:¶

(a) The core transportation system plan elements as provided in section (2) of this rule:¶

(b) Funding projections as provided in OAR 660-012-0115:¶

(c) A transportation options element as provided in OAR 660-012-0145:¶

(d) An unconstrained project list as provided in OAR 660-012-0170:¶

(e) A constrained project list as provided in OAR 660-012-0180:¶

(f) Transportation system inventories as provided in OAR 660-012-0150:¶

(g) A financially-constrained project list as provided in OAR 660-012-0180:¶

(h) A pedestrian system element as provided in OAR 660-012-0500:¶

(i) A bicycle system element as provided in OAR 660-012-0600:¶

(j) A public transportation system element as provided in OAR 660-012-0700; and¶

(k) A street and highway system element as provided in OAR 660-012-0800.¶

(2) Transportation system plans must also include the following core elements:¶

(a) Major core elements to be updated with major updates to a transportation system plan as provided in OAR 660-012-0105:¶

(A) The base and planning horizon years for the plan as provided in section (3) of this rule:¶

(B) The land use assumptions used in development of the transportation system plan, as developed under OAR 660-012-0340:¶

(b) Minor core elements to be updated with major or minor updates to a transportation system plan as provided in OAR 660-012-0105:¶

(A) A list of all components of the plan, and the date of adoption or amendment of each:¶

(B) The policies in the city's comprehensive plan that apply to coordinated land use and transportation system planning:¶

(C) The goals and policies of the transportation system plan:¶

(D) Those areas designated by the city with concentrations of underserved populations as provided in OAR 660-012-0125:¶

(E) A record of the engagement, involvement, and decision-making processes used in development of the plan, as provided in OAR 660-012-0130, and an equity analysis as provided in OAR 660-012-0135.¶

(F) The dates of each report made to the director as provided in OAR 660-012-0900. These must include all reports made for the planning area, including city and county reports, if applicable.¶

(3) Cities shall determine the base and horizon years of transportation system plans as follows:¶

(a) The base year for a transportation system plan is the present or past year which is used for the development of plan elements. The base year must be the year of adoption of a major update to the Transportation System Update, or no earlier than five years prior.¶

(b) The horizon year for a transportation system plan is the future year for which the plan contains potential projects. The horizon year is a minimum of twenty years from the year of adoption of a major update to the transportation system plan.¶

(4) Cities must coordinate the development of transportation system plans with counties, transportation facility owners, and transportation service providers.¶

(5) Cities must develop transportation system plans and amendments to those plans consistent with the provisions of OAR 660-012-0105 through OAR 660-012-0215.¶

(6) Adoption or amendment of a transportation system plan shall constitute the land use decision regarding the need for transportation facilities, services, and major improvements; and their function, mode, and general location.¶

(7) Cities shall make findings of compliance with applicable statewide planning goals and acknowledged comprehensive plan policies and land use regulations in conjunction with the adoption or amendment of the transportation system plan.¶

(8) Cities and counties must design transportation system plans to achieve transportation performance targets as provided in OAR 660-012-0910 for increasing transportation choices, avoiding principal reliance on the automobile, and reducing transportation-related climate pollution.¶

(9) Metro must adopt a regional transportation system plan as provided in OAR 660-012-0140.¶

(10) Cities and counties in the Portland Metropolitan area must meet the requirements provided in OAR 660-012-0140.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0105

RULE SUMMARY: This rule provides for how local governments in metropolitan areas update transportation system plans.

CHANGES TO RULE:

660-012-0105

Transportation System Plan Updates

(1) Cities may adopt a major update to a transportation system plan as provided in section (2), or a minor update as provided in section (4).¶

(2) A major update to a transportation system plan is any update that:¶

(a) Includes a change to the horizon year of the plan;¶

(b) Any update where the adoption date is fewer than five years prior to January 1 of the planning horizon year of the acknowledged plan; or¶

(c) Newly includes a facility authorized as provided in OAR 660-012-0830.¶

(3) A city making a major update to a transportation system plan must:¶

(a) Include an update to the core transportation system plan elements as provided in OAR 660-012-0100, and include all other applicable elements as provided in OAR 660-012-0100.¶

(b) Follow the engagement requirements of OAR 660-012-0120 in the development of the major update to the transportation system plan.¶

(c) Complete the review of any proposed facility required to be reviewed as provided in OAR 660-012-0830 prior to adoption in the transportation system plan.¶

(4) A minor update to a transportation system plan is any update which is not a major update as provided in section (2) of this rule. A city making a minor update to a transportation system plan must:¶

(a) Include, at minimum, an update to core transportation system plan elements as provided in OAR 660-012-0100.¶

(b) Follow the engagement requirements of OAR 660-012-0120 in the development of the minor update to the transportation system plan.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0110

RULE SUMMARY: This rule provides for determining the geographic scope of local transportation system plans in metropolitan areas.

CHANGES TO RULE:

660-012-0110

Transportation System Planning Area

(1) The planning area for transportation system plans is the area encompassed by the acknowledged urban growth boundary, including both incorporated and unincorporated areas. The unincorporated area within urban growth boundaries is the urbanizable area.¶

(2) Cities are responsible for the development and adoption of transportation system plans for the entire planning area. Cities shall work cooperatively with counties to effectively plan for the urbanizable area.¶

(3) Counties are responsible for cooperatively working with cities on the development and adoption of transportation system plans including the urbanizable area.¶

(4) Cities and counties must jointly determine how transportation system planning will occur in the urbanizable area, including plan adoption, through intergovernmental agreement.¶

(5) In lieu of sections (2) and (3) of this rule, a county may choose to develop and adopt a separate transportation system plan for areas in the urbanizable area. The county and associated city must meet the requirements as provided in sections (4) and (7) of this rule.¶

(6) Counties planning for unincorporated urban areas as provided in this rule, and associated cities, must meet these requirements:¶

(a) Counties must meet the applicable requirements of this division as if they were a city, even when requirements only refer to cities.¶

(b) Both the city and county must meet all applicable requirements based on the population of the entire urban area.¶

(c) Both the city and the county must adopt transportation system plans with the same horizon year.¶

(7) Counties must plan areas outside urban growth boundaries as rural, regardless of location within a metropolitan area. Counties planning for unincorporated communities within a metropolitan area must meet requirements provided in OAR chapter 660, division 22.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0115

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop funding projections for local transportation system plans.

CHANGES TO RULE:

660-012-0115

Funding Projections

(1) Cities and counties must include funding projections in the transportation system plan. Funding projections must include the list of funding sources and amount of funding available, as provided in this rule.¶

(2) Cities and counties must include a list of transportation system funding sources in the transportation system plan. The list of funding sources must include all funding sources that the city expects to use over the planning period to operate, maintain, or construct the transportation system. These sources include, but are not limited to:¶

(a) Local, regional, state, and federal funding sources; and¶

(b) Sources expected to be directed to transportation facilities or services within the planning area controlled by any transportation facility or service operator.¶

(3) The list of funding sources must include, for each source of funding identified:¶

(a) The expected amounts of funding for each year over the remainder of the planning period;¶

(b) The purpose of the source of funding and any key limitations on the use of the funding; and¶

(c) Reasons for expecting the finding source to be available during the planning period. These reasons may include, but are not limited to:¶

(A) The source comes from transportation facility pricing revenues, including parking revenues;¶

(B) The source comes from tax or bond revenues;¶

(C) The source comes from fees, charges, or other local revenues;¶

(D) The source comes from grants given using a formula or other regular disbursement;¶

(E) The source comes from regional funds provided through a Metropolitan Planning Organization; and¶

(F) The source previously provided funds to the city or county and can reasonably expected to provide more in the future.¶

(4) The city or county must use the list of funding sources to determine the amount of funding expected to be available for use to develop transportation projects over the planning period. Funding amounts which are expected to be used to maintain and operate the transportation system, or used for other purposes than to fund transportation projects, must be excluded. The transportation system plan must clearly describe the amounts that are included and excluded.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0120

RULE SUMMARY: This rule provides for how local governments in metropolitan areas engage the public when developing local transportation system plans.

CHANGES TO RULE:

660-012-0120

Transportation System Planning Engagement

(1) Cities and counties must develop transportation system plans using methods of engaging the public and making decisions consistent with the statewide planning goals and provisions of the local comprehensive plan.¶

(2) Public engagement and decision making must place an increased emphasis on centering the voices of underserved populations as provided in OAR 660-012-0125.¶

(3) Cities or counties engaged in a major update of the transportation system plan as provided in OAR 660-012-0105, or an update of the future land use assumptions as provided in OAR 660-012-0340, must make a special effort to ensure underserved populations, identified as provided in OAR 660-012-0125, are informed about the choices that need to be made in the planning process, given a meaningful opportunity to inform the planning process, and to the extent possible, have an equitable share of the decision-making power over key decisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0125

RULE SUMMARY: This rule provides for a definition of underserved populations used throughout the division.

CHANGES TO RULE:

660-012-0125

Underserved Populations

- (1) In order to implement provisions of this division, cities and counties must prioritize community-led engagement and decision-making, with specific attention to the underserved populations listed in section (2) of this rule.
- (2) When updating or amending a transportation systems plan, cities and counties must identify populations of people living in the community who need prioritized attention with regard to transportation and land use planning due to historic and current marginalization. Underserved populations include, but are not limited to:
- (a) Black and African American people;
 - (b) Indigenous people (including Tribes, American Indian/Alaska Native and Hawaii Native);
 - (c) People of Color (including but not limited to Hispanic, Latina/o/x, Asian, Arabic or North African, Middle Eastern, Pacific Islander, and mixed-race or mixed-ethnicity populations);
 - (d) Immigrants, including undocumented immigrants and refugees;
 - (e) People with limited English proficiency;
 - (f) People with disabilities;
 - (g) People experiencing homelessness;
 - (h) Low-income and low-wealth community members;
 - (i) Low- and moderate-income renters and homeowners;
 - (j) Single parents;
 - (k) Lesbian, gay, bisexual, transgender, queer, intersex, asexual, or two-spirit community members; and
 - (l) Youth and seniors.
- (3) Cities and counties must identify geographic areas with above average concentrations of underserved populations.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0130

RULE SUMMARY: This rule provides for how local governments in metropolitan areas center underserved populations in decision-making.

CHANGES TO RULE:

660-012-0130

Decision-Making with Underserved Populations

(1) Cities and counties must, as a part of an involvement program required as provided in OAR 660-015-0000(1), center the voices of underserved populations in processes at all levels of decision-making under this division. Actions that may accomplish this include, but are not limited to:

(a) Regularly reporting on progress made under this rule as provided by section (3);

(b) Conducting equity analyses as provided in OAR 660-012-0135;

(c) Engaging in additional outreach activities with underserved populations and in areas with concentrations of underserved populations. Such outreach activities should include activities in multiple languages and formats, be accessible to people with disabilities, and be accessible to people without internet access, with limited transportation and child care options, and with schedule constraints around employment or other critical responsibilities;

(d) Considering the effect on underserved populations when developing plans, including land use plans and plans for public investment; and

(e) Developing decision-making factors that recognize historic and current inequities, and work to reduce them.

(2) Cities and counties must identify those federally recognized sovereign tribes whose ancestral lands include the area now within the city or county. The city or county must engage with affected tribes to notify them of coordinated land use and transportation planning activities and projects under this division.

(3) Cities and counties must regularly assess and report on progress made under this rule by:

(a) Reporting to the department annually as provided in OAR 660-012-0900;

(b) Making regular reports to the planning commission and governing body of the city or county; and

(c) Making regular public reports to the community.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0135

RULE SUMMARY: This rule provides for how local governments in metropolitan areas conduct an equity analysis as required in the division.

CHANGES TO RULE:

660-012-0135

Equity Analysis

(1) Cities and counties must determine whether the land use and transportation plans required in this division improve outcomes for underserved populations by using an equity analysis. An equity analysis is intended to determine benefits and burdens on underserved populations, as provided in OAR 660-012-0125.

(2) A city or county engaging in an equity analysis must:

(a) Engage with members of underserved populations as provided in OAR 660-012-0125 to develop key community outcomes;

(b) Assess, document, acknowledge, and address where past policies and effects of climate change have harmed and are likely to perpetuate harm to underserved populations;

(c) Assess, document, acknowledge, and address where current and past racism has harmed and continues to harm underserved populations;

(d) Recognize where and how intersectional discrimination compounds disadvantages;

(e) Gather, collect, and value lived experience, qualitative, and quantitative information from the community on how the proposed change benefits or burdens underserved populations;

(f) Analyze the proposed changes for impacts and alignment with desired key community outcomes;

(g) Develop strategies to create greater equity or minimize negative consequences;

(h) Develop and track key indicators over time and continue to communicate with and involve the people in the community who are members of underserved populations; and

(i) Report back and share the information learned from the analysis and unresolved issues with people in the community who are members of underserved populations.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0140

RULE SUMMARY: This rule provides for transportation system planning requirements for local governments and Metro for the Portland metropolitan area.

CHANGES TO RULE:

660-012-0140

Transportation System Planning in the Portland Metropolitan Area

(1) This rule applies to cities and counties in the Portland Metropolitan Area, and Metro. In the Portland Metropolitan Area, cities and counties shall develop and adopt local transportation system plans, and Metro shall develop and adopt a regional transportation system plan as provided in this rule.¶

(2) Cities and counties shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with Metro's regional transportation system plan. Consistent means city and county comprehensive plans and implementing ordinances, conform with the policies and projects in the regional transportation system plan. If Metro finds a local transportation system plan is consistent with the Regional Transportation Functional Plan, the transportation system plan shall be deemed consistent with the regional transportation system plan.¶

(3) Metro shall prepare, adopt, amend, and update a regional transportation system plan in coordination the with regional transportation plan required by federal law. Insofar as possible, the regional transportation system plan shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division.¶

(a) When Metro adopts or amends the regional transportation plan to comply with this division as provided in this section, Metro shall review the adopted plan or amendment and either:¶

(A) Adopt findings that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional transportation system plan and compliant with applicable provisions of this division; or¶

(B) Adopt amendments to the regional transportation system plan that make the regional transportation plan consistent and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the regional transportation plan amendment or update and shall be adopted no later than one year from the adoption of the regional transportation plan amendment or update or according to a work program approved by the commission. A plan amendment is initiated for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR 660-018-0020.¶

(b) Adoption or amendment of the regional transportation plan relates to compliance with this division for purposes of this section if it does one or more of the following:¶

(A) Changes plan policies;¶

(B) Adds or deletes a project from the list of planned transportation facilities, services or improvements or from the financially-constrained project list required by federal law;¶

(C) Modifies the general location of a planned transportation facility or improvement;¶

(D) Changes the functional classification of a transportation facility; or¶

(E) Changes the planning period or adopts or modifies the population or employment forecast or allocation upon which the plan is based.¶

(c) The following amendments to the regional transportation plan do not relate to compliance with this division for purposes of this section:¶

(A) Adoption of an air quality conformity determination;¶

(B) Changes to a federal revenue projection;¶

(C) Changes to estimated cost of a planned transportation project; or¶

(D) Deletion of a project from the list of planned projects where the project has been constructed or completed.¶

(4) Notwithstanding any requirement in this division, Metro may adopt provisions into a regional functional plan that require cities and counties to meet an additional requirement for transportation system planning where Metro finds that the additional requirement is necessary to meet regional planning objectives and supports the purposes of this division.¶

(5) Notwithstanding requirements for transportation system planning areas provided in OAR 660-012-0110:¶

(a) Metro shall work cooperatively with cities and counties to determine responsibility for planning areas in the urbanizable area. All lands within the Metro Urban Growth Boundary must be within the planning area of either a city or county. Where a county has responsibility for a planning area, the county must meet the requirements as provided for counties in OAR 660-012-0110;¶

(b) Counties planning for unincorporated areas with the urban growth boundary shall meet all applicable requirements based on the population of the planning area; and¶

(c) Counties and cities need not have the same planning horizon year.¶

(6) Notwithstanding requirements for transportation system inventories as provided in OAR 660-012-0150, Metro shall prescribe inventory requirements in transportation system plans for cities and counties in a regional functional plan.¶

(7) Metro may propose alternative requirements in lieu of requirements provided in this division.¶

(a) The director shall review proposed alternative requirements to make a recommendation to the commission as to whether the proposed alternative requirements would meet the objectives of the original requirements and support the purposes of this division.¶

(b) The commission shall hold a hearing to review the proposed alternative requirements and the director's recommendation. If the commission finds that the proposed alternative requirements meet the objectives of the original requirements and support the purposes of this division, then the commission shall issue an order approving the proposed alternative requirements; otherwise, the commission shall remand the proposed alternative requirements to Metro with specific directions for changes needed to meet the objectives of the original requirement and support the purposes of this division.¶

(c) Upon approval by the commission, Metro may adopt the proposed alternative requirements into a regional functional plan. Upon adoption by Metro, cities and counties that comply with the alternative requirements of the regional functional plan are no longer required to meet the specific requirements of the commission order.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0145

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a transportation options element of a transportation system plan.

CHANGES TO RULE:

660-012-0145

Transportation Options Planning

(1) Transportation system plans must include a transportation options element that includes:¶

(a) The existing programs, services, and projects identified in section (2);¶

(b) The future transportation demand management needs identified in section (3) and the performance targets as provided in OAR 660-012-0910; and¶

(c) A trip reduction strategy for large employers.¶

(2) Cities and counties shall coordinate with transportation options providers, public transportation service providers, and other cities and counties to identify existing transportation options and transportation demand management programs, services, and projects. This must include, but is not limited to:¶

(a) The identification of education, encouragement, and other transportation demand management programs and services that focus on non-driving forms of transportation;¶

(b) The identification of transportation demand management programs and policies that discourage the use of single occupancy vehicles; and¶

(c) The identification of the transportation options needs of underserved populations.¶

(3) Cities and counties shall coordinate with transportation options providers, public transportation service providers, and other cities and counties to identify future transportation demand management needs. This must include, but is not limited to:¶

(a) Commute Trip Reduction consultation and promotion of programs such as the provision of transit passes and parking cash-out;¶

(b) Physical improvements such as carpool parking spaces and park and ride locations; and¶

(c) Regional solutions for intercity travel.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0150

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop inventories in a transportation system plan.

CHANGES TO RULE:

660-012-0150

Transportation System Inventories

(1) This rule applies to transportation inventories as provided in OAR 660-012-0505, OAR 660-012-0605, OAR 660-012-0705, and OAR 660-012-0805.

(2) Cities and counties shall coordinate with other transportation facility and service providers, including, but not limited to state agencies, other cities and counties, and public transportation system operators to develop the transportation system inventory.

(3) Inventories must include all publicly accessible transportation facilities and services within the planning area, regardless of ownership or maintenance responsibility. Inventories must note ownership or maintenance responsibility for all facilities.

(4) Inventories must clearly identify the function of a facility or service, primary users of the facility or service, and the planned land use context of differing segments of the facility.

(a) Function includes the classification of the facility or services, its primary uses, and whether it primarily serves local, regional, pass-through, or freight traffic.

(b) Primary users of the facility includes whether users are primarily on foot, bicycle, transit, freight, or personal vehicle.

(c) Land use context includes determining what types of planned land uses surround the facility.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0155

RULE SUMMARY: This rule provides a prioritization framework for local governments in metropolitan areas when making prioritization decisions in transportation system plans.

CHANGES TO RULE:

660-012-0155

Prioritization Framework

(1) Cities, counties, Metro, and state agencies shall use the framework in this rule to make decisions about prioritization of transportation facilities and services when making decisions as provided in this division. Cities, counties, Metro, and state agencies must consider the following:¶¶

(a) Prioritization factors as provided in section (2);¶¶

(b) Classification of facilities or segments as provided in section (3);¶¶

(c) The planned land use context as provided in section (4); and¶¶

(d) Expected primary users as provided in section (5).¶¶

(2) Cities, counties, Metro, and state agencies shall use the following factors to prioritize transportation facilities and services. Transportation facilities and services supporting each of these factors must be prioritized.¶¶

(a) Meeting greenhouse gas reduction targets, including:¶¶

(A) Reducing per-capita vehicle miles traveled to meet greenhouse gas reduction targets as provided in OAR 660-044-0020 and 660-044-0025;¶¶

(B) Supporting compact, pedestrian-friendly patterns of development in urban areas, particularly in Climate Friendly Areas;¶¶

(C) Reducing single-occupant vehicle travel as a share of overall travel; and¶¶

(D) Meeting performance targets as provided in OAR 660-012-0910.¶¶

(b) Improving equitable outcomes for underserved populations identified as provided in OAR 660-012-0125;¶¶

(c) Improving safety, particularly reducing or eliminating fatalities and serious injuries;¶¶

(d) Improving access for people with disabilities;¶¶

(e) Improving access to destinations, particularly key destinations as provided in OAR 660-012-0360;¶¶

(f) Completing the multimodal transportation network, including filling gaps and making connections; and¶¶

(g) Supporting the economies of the community, region, and state.¶¶

(3) Cities, counties, Metro, and state agencies shall consider the functional classification of planned or existing transportation facilities or segments when making decisions about appropriate transportation facilities and services. Cities, counties, Metro, and state agencies may establish different functional classifications for each mode on any facility or segment that they own and operate.¶¶

(4) Cities, counties, Metro, and state agencies shall consider the planned land use context around an existing or planned transportation facility or segment when making decisions about appropriate transportation facilities and services. In particular:¶¶

(a) Within Climate Friendly Areas, cities, counties, Metro, and state agencies shall prioritize pedestrian, bicycle, and public transportation facilities and services. Cities, counties, Metro, and state agencies must ensure facilities are planned for these modes to experience reliable, low-stress travel within Climate Friendly Areas with minimal interference from motor vehicle traffic.¶¶

(b) In areas with concentrations of underserved populations, cities, counties, Metro, and state agencies shall prioritize projects addressing historic and current marginalization. Proposed projects in these areas must work to rectify previous harms and prevent future harms from occurring. These areas may have suffered from disinvestment or harmful investments, including transportation system investments. Harms include but are not limited to displacement and increased exposure to pollutants.¶¶

(5) Cities, counties, Metro, and state agencies shall consider the expected primary users of an existing or planned transportation facility or segment when making decisions about appropriate transportation facilities and services. In particular:¶¶

(a) In areas near schools or other locations with expected concentrations of children, or areas with expected concentrations of older people or people with disabilities, cities, counties, Metro, and state agencies must prioritize safe, protected, and continuous pedestrian and bicycle networks connecting to key destinations, including transit stops.¶¶

(b) In industrial areas, and along routes accessing key freight terminals, cities, counties, Metro, and state agencies must consider the needs of freight users. Pedestrian, bicycle, and public transportation system connections must be provided in industrial areas at a level that provides safe access for workers.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0160

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan to reduce vehicle miles traveled.

CHANGES TO RULE:

660-012-0160

Reducing Vehicle Miles Traveled

(1) When a city, county, or Metro is making a major update to a transportation system plan as provided in OAR 660-012-0105, they shall project vehicle miles traveled per capita at the horizon year.

(2) The city, county, or Metro must prepare separate projections using two different lists of future projects:

(a) A projection that estimates changes in future vehicle miles traveled per capita from the base year that would result from projects on the financially-constrained project list as provided in OAR 660-012-0180, including latent and induced travel of additional roadway capacity; and

(b) A projection that estimates changes in future vehicle miles traveled per capita from the base year that would result from projects on the unconstrained project list as provided in OAR 660-012-0170, including latent and induced travel of additional roadway capacity.

(3) The projections must be based on:

(a) Land use and transportation policies in an acknowledged comprehensive plan and in the proposed transportation system plan;

(b) Local actions consistent with the adopted performance targets under OAR 660-12-0910, and regional outcomes under OAR 660-044-0120;

(c) Forecast land use patterns as provided in OAR 660-012-0340; and

(d) State and federal actions included in a land use and transportation scenario plan approved as provided in OAR 660-044-0120, or included in the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission, including the following state-led actions that affect auto operating costs:

(A) State-led pricing policies, and energy prices; and

(B) Vehicle and fuel technology, including vehicle mix, vehicle fuel efficiency, fuel mix, and fuel carbon intensity.

(4) Cities, counties, and Metro may only adopt a transportation system plan if the projected vehicle miles traveled per capita at the horizon year using the financially-constrained project list is lower than estimated vehicle miles traveled per capita in the base year scenario.

(5) If a city, county, or Metro has an adopted regional scenario plan approved under OAR 660-044-0050 or OAR 660-044-120, then the transportation system plan must include a financially constrained or unconstrained project list that results in projected vehicle miles traveled per capita at the horizon year that is lower than the estimated vehicle miles traveled per capita at the base year by an amount that is consistent with the regional scenario plan.

(6) If a city, county, or Metro does not have an adopted regional scenario plan approved under OAR 660-044-0050 or OAR 660-044-0120, then the city or county may only adopt a transportation system plan that meets one of the following options:

(a) The transportation system plan includes a financially constrained or unconstrained project list that would result in projected vehicle miles traveled per capita at the horizon year that is lower than the estimated vehicle miles traveled per capita by the percentage that is the target for reducing greenhouse gas emissions provided in OAR 660-044-0020 or 660-044-0025; or

(b) The transportation system plan is adopted as part of a regionally coordinated transportation planning process that includes:

(A) A regional transportation plan that includes a projection for regional vehicle miles traveled per capita at the horizon year that is lower than the estimated vehicle miles traveled per capita by the percentage that is the target for reducing greenhouse gas emissions provided in OAR 660-044-0020 or 660-044-0025; and

(B) All the cities and counties in the metropolitan area are adopting local transportation system plans consistent with the regional transportation plan.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0170

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop an unconstrained project list as part of a transportation system plan.

CHANGES TO RULE:

660-012-0170

Unconstrained Project List

(1) Cities and counties shall create a combined project list by combining:¶

(a) The pedestrian project list developed as provided in OAR 660-012-0520;¶

(b) The bicycle project list developed as provided in OAR 660-012-0620;¶

(c) The public transportation project list developed as provided in OAR 660-012-0720; and¶

(d) The streets and highways project list developed as provided in OAR 660-012-0820.¶

(2) Cities and counties shall review the project lists to determine if there are opportunities to combine proposed projects from multiple single-mode lists into a single multimodal project, and then add that project to combined project list.¶

(3) Cities and counties shall review the combined project list and remove projects as necessary to meet the requirements of this section to develop the unconstrained project list.¶

(a) There is no limit to the number of projects which may be included on the unconstrained project list.¶

(b) The city or county must ensure the unconstrained project list meets the vehicle miles traveled per capita targets as provided in OAR 660-012-0160.¶

(4) Cities and counties shall develop a method of prioritizing projects on the unconstrained project list consistent with the prioritization factors in OAR 660-012-0155. Projects on the unconstrained project list may be individually ranked or ranked in tiers. Unconstrained project lists ranked in tiers must have enough tiers to clearly be able to determine the relative ranking of projects when making decisions. Cities and counties must meet the following requirements when developing a method of prioritizing projects on the unconstrained project list:¶

(a) The project will help reduce vehicle miles traveled;¶

(b) The project burdens underserved populations less than and benefit as much as the city or county population as a whole;¶

(c) The project will help achieve the performance targets as provided in OAR 660-012-0910; and¶

(d) Cities and counties shall describe the method used to prioritize the unconstrained project list in the transportation system plan.¶

(5) Cities and counties shall develop planning-level cost estimates for the top ranked projects on the prioritized unconstrained project list as provided in section (4) of this rule. The city or county must make estimates for as many projects as the city or county reasonably believes could be funded in the planning period. The city or county need not make cost estimates for every project on the unconstrained project list.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0180

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a financially-constrained project list as part of a transportation system plan.

CHANGES TO RULE:

660-012-0180

Financially-Constrained Project List

(1) Cities and counties shall include a financially-constrained project list in a transportation system plan. Cities and counties shall use the prioritized unconstrained project list developed as provided in OAR 660-012-0170 and the amount of funding available developed as provided in OAR 660-012-0115 to produce the financially-constrained project list.

(2) The financially-constrained project list contains the planned projects that may be considered for further project development, funding, and construction.

(a) Projects on the financially-constrained project list are the only projects which cities or counties may advance to be placed in the financially-constrained list of a federally-required regional transportation plan.

(b) Cities and counties may permit projects on the unconstrained project list to move forward when the project is related to a development and the project did not need to be authorized as provided in OAR 660-012-0830.

(3) Cities and counties shall take the top available projects on the prioritized unconstrained project list, using the planning-level cost estimates developed as provided in OAR 660-012-0170, up to 125 percent of the funding available. Using this list, cities and counties shall:

(a) Review the list of projects to determine if the city or county may reasonably demonstrate that the list of projects would result in a reduction of per capita vehicle miles traveled, as provided in OAR 660-012-0160, and be on track to meet the targets in OAR 660-044-0020 or OAR 660-044-0025;

(b) Review the list of projects to ensure that it would result in burdens on underserved populations less than and benefit as much as the city or county population as a whole to determine if the outcomes of the project list are equitable; and

(c) Review the list of projects against the targets set for each performance measure as provided in OAR 660-012-0910 or OAR 660-044-0110 to determine if the list results in progress toward meeting the targets.

(4) If the list of projects cannot meet each test in section (3), the city or county must adjust the project list to find the highest-ranking set of projects that can meet the criteria in section (3). This is the financially-constrained project list.

(5) Cities or counties making a major or minor amendment to the transportation system plan as provided in OAR 660-012-0105 which includes an update to any project list, must update the financially-constrained project list as provided in this rule.

(6) Cities and counties shall prioritize the implementation of projects from the financially-constrained project list for their ability to reduce climate pollution and improve equitable outcomes using the criteria provided in section (3) of this rule.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0190

RULE SUMMARY: This rule provides for how local governments in metropolitan areas may defer some decisions that would otherwise be made in a transportation system plan to a later refinement planning process.

CHANGES TO RULE:

660-012-0190

Transportation System Refinement Plans

(1) A city or county may, when adopting a major update to the transportation system plan as provided in OAR 660-012-0100, defer decisions regarding function, general location, and mode of a refinement plan if findings are adopted that:

(a) Identify the transportation need for which decisions regarding function, general location, or mode are being deferred;

(b) Demonstrate why information required to make final determinations regarding function, general location, or mode cannot reasonably be made available within the time allowed for preparation of the transportation system plan;

(c) Explain how deferral does not invalidate the assumptions upon which the transportation system plan is based or preclude implementation of the remainder of the transportation system plan;

(d) Describe the nature of the findings which will be needed to resolve issues deferred to a refinement plan; and

(e) Set a deadline for adoption of a refinement plan no more than five years after the adoption of the major update to the transportation system plan.

(2) Where a Corridor Environmental Impact Statement (EIS) is prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the development of the refinement plan shall be coordinated with the preparation of the Corridor EIS. The refinement plan shall be adopted prior to the issuance of the Final EIS.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0200

RULE SUMMARY: This rule provides for local governments to implement certain temporary or pilot projects without amending a transportation system plan.

CHANGES TO RULE:

660-012-0200

Temporary Projects

(1) Notwithstanding any other part of this division, an operator of a transportation facility may undertake a temporary project to change streets, roads, or highways consistent with this rule, without specific inclusion in a project list in a transportation system plan.¶

(2) Temporary projects may include:¶

(a) Temporary projects to convert areas dedicated to existing on-street parking or general-purpose travel lanes to pedestrian facilities, areas, or plazas; bicycle facilities; or transit lanes.¶

(b) Temporary projects to implement a pilot program to price facilities for motor vehicles on a street or highway. This rule does not restrain any parking pricing or parking management activities.¶

(c) Temporary transportation projects to provide basic transportation network connectivity and function after a major emergency impacting the transportation system to a significant degree.¶

(3) Temporary projects as provided in this rule may be in place for up to two years, or three years within a climate friendly area. Projects extending past this duration must be adopted into the transportation system plan.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0210

RULE SUMMARY: This rule provides for how local governments in metropolitan areas use transportation modeling and analysis to make land use decisions.

CHANGES TO RULE:

660-012-0210

Transportation Modeling and Analysis

(1) If a city or county is relying on transportation models or mathematical analysis of the transportation system to make a land use decision, then the city or county shall do so consistent with this rule.¶

(2) The model or analysis must account for changes in vehicle miles traveled per capita that would result from any transportation projects proposed as a part of the land use decision.¶

(3) The assumptions and inputs used with the modeling or analysis must be consistent with acknowledged plans.¶

(4) The land use decision must not increase vehicle miles traveled per capita.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0215

RULE SUMMARY: This rule provides for how local governments in metropolitan areas use transportation performance standards.

CHANGES TO RULE:

660-012-0215

Transportation Performance Standards

(1) This rule applies to performance standards that cities and counties use to review comprehensive plan and land use regulation amendments as provided in OAR 660-012-0060. If a city or county requires applicants to analyze transportation impacts as part of development review in acknowledged local land use regulations, then that review must use performance standards established under this rule. This rule applies to performance standards that Metro uses to review functional plan amendments as provided in OAR 660-012-0060.

(2) Cities and counties shall adopt performance standards as an element of a local transportation system plan. The performance standards must be consistent with the acknowledged local comprehensive plan. The performance standards must support meeting the targets for performance measures provided in OAR 660-012-0910. The transportation system plan must include the elements listed below.

(3) What characteristics of the transportation system will be measured, estimated or projected, and the methods to calculate performance.

(4) Thresholds to determine whether the measured, estimated, or projected performance meets the performance standard. Thresholds may vary by facility type, location, or other factors.

(5) Findings for how the performance standard supports meeting the targets for performance measures provided in OAR 660-012-0910.

(6) Cities, counties, Metro, and state agencies shall adopt two or more performance standards. At least one of the performance standards must support increasing transportation choices and avoiding principal reliance on the automobile. The transportation system plan must clearly state how to apply the multiple performance standards to a proposal that meets some, but not all, of the performance standards. The performance standards must evaluate at least two of the following objectives for the transportation system, for any or all modes of transportation:

(a) Reducing climate pollution;

(b) Equity;

(c) Safety;

(d) Network connectivity;

(e) Accessibility;

(f) Efficiency;

(g) Reliability; and

(h) Mobility.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0300

RULE SUMMARY: This rule provides for how local governments in metropolitan areas generally accomplish coordinated land use and transportation planning.

CHANGES TO RULE:

660-012-0300

Coordinated Land Use and Transportation System Planning

(1) Cities and counties must coordinate land use and transportation plans.¶

(2) Cities and counties must, if applicable, adopt and implement climate friendly areas as provided in OAR 660-012-0310.¶

(3) Cities and counties must adhere to the applicable land use requirements as provided in OAR 660-012-0330.¶

(4) Cities and counties must, in the development of transportation plans, use the land use assumptions developed as provided in OAR 660-0340.¶

(5) Cities and counties must develop a list of key destinations, as provided in OAR 660-012-0360.¶

(6) Cities and counties must meet the parking management requirements as provided in OAR 660-012-0400.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0310

RULE SUMMARY: This rule sets out locational requirements for areas to be considered for designation as a climate friendly area. The rule also identifies local governments subject to the requirement to designate climate friendly areas; or within Metro, to designate Region 2040 centers.

CHANGES TO RULE:

660-012-0310

Climate Friendly Areas

(1) Cities and counties shall study and zone climate friendly areas in locations that meet the following requirements:[¶]

(a) Must address the land use requirements of OAR 660-012-0320.[¶]

(b) Must be located in existing or planned urban centers, including downtowns, neighborhood centers, transit-served corridors, or similar districts. To the extent practicable, climate friendly areas should be located in close proximity to areas planned for, or provided with, high density residential uses and a high concentration of employment opportunities.[¶]

(c) Must be located in areas that are served, or planned for service, by high quality pedestrian, bicycle, and transit services.[¶]

(d) May not be located in areas where development is not allowed under authority of Statewide Planning Goal 7. Climate friendly areas may be designated in areas subject to Statewide Planning Goal 7 if the local government has adopted requirements for development that will mitigate potential hazards to life and property.[¶]

(e) Cities may designate climate friendly areas within the urban growth boundary, but outside the city limits boundary, if all of the following requirements are met:[¶]

(A) The area is contiguous with the city limits boundary;[¶]

(B) The provision of urban services is contingent upon annexation into the city limits and the area is readily serviceable with urban water, sewer, stormwater, and transportation services;[¶]

(C) Zoning that is consistent with climate friendly area requirements will be applied upon annexation, based on the comprehensive plan designation for the area;[¶]

(D) The county in which the subject area is located has adopted the same comprehensive plan designation for the area; and[¶]

(E) The city can demonstrate that at least 90 percent of recent annexation applications have been approved within one year of the date of annexation application.[¶]

(f) Climate friendly areas shall have a minimum width of 750 feet. Exceptions to these minimum dimensional requirements are allowed due to natural barriers, such as rivers; or due to long-term barriers in the built environment, such as freeways. Exceptions are also allowed if potential climate friendly areas are constrained by adjacent areas planned and zoned to meet industrial land needs.[¶]

(2) Cities and counties outside Metro with a population of more than 5,000 within an urban growth boundary shall designate climate friendly areas. Counties with planning jurisdiction in areas provided with urban water, sanitary sewer, stormwater, and transportation services within an identified urban growth boundary shall coordinate with the respective city or cities to address climate friendly area requirements for those areas. County areas outside urban growth boundaries; or within urban growth boundaries but not provided with urban water, sanitary sewer, stormwater, and transportation services; are not subject to this rule. Cities and counties shall designate climate friendly areas as they cross the following population thresholds:[¶]

(a) A city or county with a population within an urban growth boundary exceeding 5,000 shall designate climate friendly areas as provided in OAR 660-012-0315 within two years of reaching a population exceeding 5,000.[¶]

(b) A city or a county with a population exceeding 10,000 within an urban growth boundary shall designate climate friendly areas as provided in OAR 660-012-0315 within two years of reaching a population exceeding 10,000. The city or county shall maintain sufficient lands within climate friendly areas as their population grows, as provided in OAR 660-012-0315. For cities also subject to OAR 660-008-0045, compliance with this requirement shall be demonstrated in each Housing Capacity Analysis following the initial designation of climate friendly areas. Land use requirements for climate friendly areas shall be established concurrent or prior to the adoption of the Housing Capacity Analysis as provided in OAR 660-012-0320. Counties subject to this rule shall coordinate with cities to address climate friendly area requirements within an urban growth boundary.[¶]

(3) Metro and cities and counties within the Metro urban growth boundary shall utilize the provisions of OAR 660-012-0325 when reviewing amendments to comprehensive plans or land use regulations within a Region 2040 center in the manner of a climate friendly area, in lieu of OAR 660-012-0060.[¶]

(4) If a city or county outside Metro have not designated sufficient climate friendly areas as provided in this rule, the commission may:[¶]

(a) Initiate periodic review for the subject local government to address the requirement; or

(b) Issue an enforcement order to the local government, consistent with ORS 197.646.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0315

RULE SUMMARY: This rule describes required analysis and the process and information needed for identified local governments to first study, then zone, climate friendly areas.

CHANGES TO RULE:

660-012-0315

Designation of Climate Friendly Areas

(1) Cities and counties subject to the requirements of OAR 660-012-0310(2) with a population of 10,000 or more must designate climate friendly areas sufficient to accommodate at least thirty percent of the total identified number of housing units necessary to meet all current and future housing needs over the planning period by using the average buildable residential area calculations in section (2). A local government may designate one or several climate friendly areas in order to accommodate at least thirty percent of housing units.¶

(2) Cities and counties subject to section (1) must calculate the housing that can be accommodated in climate friendly areas by estimating the average buildable residential area within climate friendly areas, as follows:¶

(a) Based on development standards within a climate friendly area, including applicable setbacks, allowed building heights, open space requirements, on-site parking requirements, and similar regulations, determine the buildable square footage for each net developable area. Within fully developed areas, analysis of net developable areas may be conducted for each city block, without regard to property boundaries. Within undeveloped areas, the local government shall assume the same ratio of gross land area to net developable area as that which exists in the most fully developed urban center.¶

(b) Where the local government has not established a maximum building height, assumed building height shall be 85 feet. Cities and counties may assume the following number of floors within multistory buildings, based on allowed building heights:¶

(A) Fifty feet allows for four floors.¶

(B) Sixty feet allows for five floors.¶

(C) Eighty-five feet allows for seven floors.¶

(c) Local governments that allow height bonuses for affordable housing to serve households with an income of 60 percent or less of the area median household income, or height bonuses for the construction of accessible dwelling units in excess of minimum requirements, may include 25 percent of the additional average buildable residential area allowance in their calculations of buildable square footage. Qualifying height bonuses must allow building heights above the minimums established in OAR 660-012-0320(8).¶

(d) Local governments shall assume that residential dwellings will occupy 30 percent of the buildable square footage within climate friendly areas.¶

(e) Local governments shall assume an average dwelling unit size of 900 square feet. Local governments shall use the average dwelling unit size to convert the estimated buildable residential square footage into an estimate of the number of dwelling units that may be accommodated in the climate friendly area.¶

(3) Cities and counties subject to the requirements of OAR 660-012-0310 with a population of more than 5,000 but less than 10,000 must designate at least twenty-five acres of land as climate friendly area, as provided in sections (4), (5), and (6).¶

(4) Cities and counties must submit a study of potential climate friendly areas to the department as provided in this rule and in OAR 660-012-0012. The study of potential climate friendly areas shall include the following information:¶

(a) Maps showing the location and size of all potential climate friendly areas. Cities and counties shall utilize the study process to identify the most promising area or areas to be chosen as climate friendly areas, but are not required to subsequently adopt and zone each studied area as a climate friendly area.¶

(b) Cities and counties subject to section (1) shall provide preliminary calculations of average buildable residential area and resultant residential dwelling unit capacity within each potential climate friendly area, consistent with section (2) and utilizing either existing or anticipated development standards within each climate friendly area. Potential climate friendly areas must cumulatively contain at least thirty percent of the total identified number of housing units as provided in section (1).¶

(c) A community engagement plan, consistent with the requirements of OAR 660-012-0120 through 660-012-0135.¶

(d) Analysis of how each potential climate friendly area complies, or may be brought into compliance, with the requirements of OAR 660-012-0310.¶

(e) Preliminary evaluation of existing development standards within the potential climate friendly area(s) and a general description of any changes necessary to comply with the requirements of OAR 660-012-0320.¶

(f) Plans for achieving fair and equitable housing outcomes within climate friendly areas, as identified in OAR 660-008-0050(4)(a)-(f). Analysis of OAR 660-008-0050(4)(f) shall include analysis of spatial and other data to

determine if potential climate friendly areas would be likely to displace residents who are members of state and federal protected classes. The local government shall also identify actions that may be employed to mitigate or avoid potential displacement.[¶]

(5) Cities and counties must submit reports required in section (4) as follows:[¶]

(a) The report shall include the information specified in section (4) and must be submitted to the department as provided in OAR 660-012-0012.[¶]

(b) Within 30 days of receipt of the report, the department shall:[¶]

(A) Post a complete copy of the submitted report on the department's website along with a statement that any person may file a written comment regarding the submitted report no more than 21 days after the posting of the report.[¶]

(B) Provide notice to persons described under ORS 197.615(3)(a), directing them to the posting described in paragraph (A) and informing them that they may file a written comment regarding the submitted report no more than 21 days after the posting of the report.[¶]

(c) Within 60 days of posting of the report on the department's website, the department shall provide written comments to the local government regarding the report information and the progress made to identify suitable climate friendly areas. The department shall also provide the local government with any written comments submitted by interested persons as provided in subsection (b).[¶]

(6) Cities and counties must adopt land use requirements as provided in OAR 660-012-0320, and climate friendly elements to their comprehensive plans as provided in OAR 660-012-0012. Adoption of land use requirements and the climate friendly element of the comprehensive plan shall include the following:[¶]

(a) Cities and counties subject to section (1) shall provide maps showing the location of all climate friendly areas, including calculations to demonstrate that climate friendly areas contain sufficient average buildable residential area to accommodate thirty percent of total housing units, as provided in section (2) of this rule, and based on adopted land use requirements in these areas as provided in OAR 660-012-0320. Cities and counties subject to section (3) shall provide maps showing the location of the climate friendly area. The local government shall include findings containing the information and analysis required in section (4) for any climate friendly areas that were not included in the initial study specified in section (4).[¶]

(b) Documentation of the number of total existing dwelling units, accessible dwelling units, and income-restricted dwelling units within all climate friendly areas. Where precise data is not available, local governments may provide estimates based on best available information.[¶]

(c) Documentation that all adopted and applicable land use requirements for climate friendly areas are consistent with the provisions of OAR 660-012-0320.[¶]

(d) Adoption of a climate friendly element into the comprehensive plan containing findings and analysis summarizing the local government decision process and demonstration of compliance with the provisions of OAR 660-012-0310 through 660-012-0325.[¶]

(7) For cities and counties identified in section (1), the information provided in compliance with subsection (6)(b) shall provide a basis for subsequent Housing Production Strategy Reports to assess progress towards fair and equitable housing production goals in climate friendly areas, as provided in OAR 660-008-0050(4)(a).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0320

RULE SUMMARY: This rule identifies land use requirements for climate friendly areas.

CHANGES TO RULE:

660-012-0320

Land Use Requirements in Climate Friendly Areas

(1) Cities and counties shall incorporate the requirements in sections (2) through (7) of this rule into policies and development regulations that apply in all climate friendly areas. Cities and counties shall either incorporate the provisions in section (8) into development regulations for climate friendly areas, or shall demonstrate with adopted findings and analysis that alternative development regulations for climate friendly areas will result in equal or higher levels of development in climate friendly areas as provided in section (9).¶

(2) Except as noted in section (3), development regulations for a climate friendly area shall allow mixed-use development within individual buildings or on development sites, including the following outright permitted uses:¶

(a) Multifamily residential and attached single family residential. Other residential building types may be allowed, subject to compliance with applicable minimum density requirements.¶

(b) Office-type uses.¶

(c) Non-auto dependent retail, services, and other commercial uses.¶

(d) Child care, schools, and other public uses, including public-serving government facilities.¶

(3) Portions of abutting residential or employment-oriented zoned areas within a convenient half-mile walking distance of a mixed use area zoned as provided in section (1) may count towards climate friendly area requirements, if in compliance with subsections (a) or (b). Notwithstanding existing development, average buildable residential area shall be calculated for the abutting areas based on allowed building heights and existing land use requirements in these areas, as provided in OAR 660-012-0315(2). If subsections (a) or (b) are met, no changes to existing zoning or development standards are required for these areas.¶

(a) Residential areas with minimum residential densities or existing residential development equal to or greater than the densities provided in section (8); or¶

(b) Existing employment uses equal to or greater than the number of jobs per acre provided in section (9).¶

(4) Local governments shall prioritize locating government facilities that serve the public within climate friendly areas and shall prioritize locating parks, open space, plazas, and similar public amenities in or near climate friendly areas that do not contain sufficient parks, open space, plazas, or similar public amenities. Local governments shall amend comprehensive plans to reflect these policies, where necessary.¶

(5) Local governments shall establish a maximum block length of 500 feet or less. Where block length exceeds 350 feet, a public pedestrian through-block easement shall be provided to facilitate safe and convenient pedestrian connectivity in climate friendly areas. Land use regulations in climate friendly areas must also address the requirements of OAR 660-012-0330(3). Streetscape requirements in climate friendly areas shall include street trees and green landscaping, where feasible. Substantial redevelopment of sites of two acres or more within an existing block that does not meet the standard shall provide a public pedestrian accessway allowing direct passage through the development site such that no pedestrian route will exceed 350 feet along any block face. Exceptions to this standard may be allowed due to natural barriers, such as rivers; or in areas where public access would be unsafe or contrary to the public interest.¶

(6) Development regulations may not include a maximum density limitation.¶

(7) Local governments shall address the following requirements in climate friendly areas:¶

(a) The transportation review process in OAR 660-012-0325;¶

(b) The land use requirements as provided in OAR 660-012-0330;¶

(c) The applicable parking requirements as provided in OAR 660-012-0435; and¶

(d) The applicable bicycle parking requirements as provided in OAR 660-012-0630.¶

(8) Local governments may adopt the following provisions into development regulations for climate friendly areas, or may follow the requirements in section (9). Local governments are not required to enforce the minimum residential densities below for mixed use buildings (buildings that contain residential units, as well as office, commercial, or other spaces) if the mixed use buildings meet a minimum floor area ratio of 2.0. A floor area ratio is the ratio of the gross floor area of all buildings on a development site, excluding areas dedicated to vehicular parking and circulation, in proportion to the net area of the development site on which the buildings are located. A floor area ratio of 2.0 would indicate that the gross floor area of the building was twice the net area of the site.¶

(a) Local governments with a population of 5,000 to 24,999 shall adopt the following development regulations for climate-friendly areas:¶

(A) A minimum residential density requirement of 15 dwelling units per net acre;¶

(B) Maximum building height no less than 50 feet.¶

(b) Local governments with a population of 25,000 to 49,999 shall adopt the following development regulations for at least one climate-friendly area with a minimum area of 25 acres. Additional climate friendly areas may comply with the following standards or the standard in subsection (8)(a):¶

(A) A minimum residential density requirement of 20 dwelling units per net acre:¶

(B) Maximum building height no less than 60 feet.¶

(c) Local governments with a population of 50,000 or more shall adopt the following development regulations for at least one climate friendly area with a minimum area of 25 acres. Additional climate friendly areas may comply with the following standards or the standards in (8)(a) or (8)(b):¶

(A) A minimum residential density requirement of 25 dwelling units per net acre:¶

(B) Maximum building height no less than 85 feet.¶

(9) As an alternative to adopting the development regulations in section (8), local governments may demonstrate with adopted findings and analysis that their adopted development regulations for climate friendly areas will result in equal or higher levels of development in climate friendly areas, per the following target residential and employment levels:¶

(a) Local governments with a population of 5,000 to 24,999 shall adopt development regulations in climate friendly areas to enable development, on average, of at least 20 dwelling units and 20 jobs per net acre.¶

(b) Local governments with a population of 25,000 to 49,999 shall adopt development regulations for at least one climate friendly area of at least 25 acres to enable development, on average, of at least 30 dwelling units and 30 jobs per net acre. Additional climate friendly areas may comply with this standard or with the standard in subsection (a).¶

(c) Local governments with a population of 50,000 or more shall adopt development regulations for at least one climate friendly area of at least 25 acres to enable development of, on average, at least 40 dwelling units and 40 jobs per net acre. Additional climate friendly areas may comply with this standard or with the standard in subsections (a) or (b).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0325

RULE SUMMARY: This rule describes transportation planning requirements for amendments to comprehensive plans or land use regulations within climate friendly areas or in Metro's Region 2040 centers.

CHANGES TO RULE:

660-012-0325

Transportation Review in Climate Friendly Areas

(1) Cities or counties must use this rule to review amendments to comprehensive plans or land use regulations within a climate friendly area designated as provided in OAR 660-012-0315, and to review land use decisions made to implement OAR 660-012-0310 through OAR 660-012-0320. Cities and counties are exempt from requirements as provided in OAR 660-012-0060 when reviewing amendments to comprehensive plans or land use regulations within a designated climate friendly area.

(2) Cities and counties making amendments to comprehensive plans or land use regulations to meet requirements as provided in OAR 660-012-0320 must either:

(a) Amend the transportation system plan as provided in 660-012-0100 and include a multimodal transportation gap summary as provided in section (3) of this rule, considering the proposed land uses in the climate friendly area; or

(b) Develop and adopt a multimodal transportation gap summary in coordination with impacted transportation facility providers and transportation service providers as provided in section (3) to meet requirements in OAR 660-012-0320.

(3) A multimodal transportation gap summary must be coordinated between the local jurisdiction, transportation facility providers, and transportation services providers to consider multimodal transportation needs in each climate friendly area as provided in OAR 660-012-0320. The multimodal transportation gap summary must include:

(a) A summary of the existing multimodal transportation network within the climate friendly area;

(b) A summary of the gaps in the pedestrian and bicycle networks in the climate friendly area, including gaps needed to be filled for people with disabilities, based on the summary of the existing multimodal transportation network;

(c) If applicable as provided in section (4), a highway impacts summary as provided in section (5); and

(d) A list of proposed projects to fill multimodal network gaps identified in subsection (b).

(4) A city or county shall include a highway impacts summary in the multimodal transportation gap summary if the designated climate friendly area as provided in OAR 660-012-0315 contains a ramp terminal intersection, state highway, interstate highway, or adopted ODOT Facility Plan.

(5) A highway impacts summary must identify how the transportation system may be affected by implementation of the climate friendly area. The highway impacts summary must include:

(a) A summary of the existing and proposed development capacity of the climate friendly area based on the proposed changes to the comprehensive plan and land use regulations;

(b) A summary of the additional motor vehicle traffic generation that may be expected in the planning period, considering reductions for expected complementary mixed-use development, additional multimodal options, and assuming meeting goals for reductions in vehicle miles traveled per capita; and

(c) A summary of traffic-related deaths and serious injuries within the climate friendly area in the past five years.

(6) Cities and counties making amendments to the adopted land use regulations identified under section (2) of this rule, shall adopt findings including a highway impacts summary as provided in section (5) of this rule if:

(a) A city or county is reviewing a plan amendment within one-quarter mile of a ramp terminal intersection, adopted Interchange Area Management Plan area, or adopted ODOT Facility Plan area, or;

(b) The city or county is reviewing a plan amendment that would be reasonably likely to result in increasing traffic on the state facility that exceeds the small increase in traffic defined in the Oregon Highway Plan adopted by the Oregon Transportation Commission.

(7) Cities and counties shall provide notice of proposed adoption of a multimodal transportation gap summary or a revised highway impacts summary to ODOT and other affected transportation facility or service providers prior to submitting notice as provided in OAR 660-018-0020.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0330

RULE SUMMARY: This rule provides for land use requirements for local governments to use in metropolitan areas.

CHANGES TO RULE:

660-012-0330

Land Use Requirements

(1) Cities and counties must implement plans and land use regulations to support compact, pedestrian-friendly, mixed-use land use development patterns in urban areas. Land use development patterns must support access by people using pedestrian, bicycle, and public transportation networks.¶¶

(2) Cities and counties must have land use regulations that provide for pedestrian-friendly and connected neighborhoods. Land use regulations must meet the following requirements for neighborhood design and access:¶¶

(a) Neighborhoods must be designed with connected networks of streets, paths, accessways, and other facilities to provide circulation within the neighborhood and pedestrian and bicycle system connectivity to adjacent districts. A connected street network is desirable for motor vehicle traffic but may be discontinuous where necessary to limit excessive through travel, or to protect a safe environment for walking, using mobility devices, and bicycling in the neighborhood.¶¶

(b) Neighborhoods must be designed with direct pedestrian access to key destinations as provided in OAR 660-012-0360 via pedestrian facilities.¶¶

(c) Cities and counties must set block length and block perimeter standards at distances that will provide for pedestrian network connectivity. Pedestrian accessways or pedestrian-oriented public alleys through a block may be used to meet a block length or perimeter standard. Cities and counties may choose to provide for exemptions in cases where topography, natural features, railroads, or expressways would make these provisions prohibitive. In these cases, the city or county must ensure that the block length and perimeter are as short as possible.¶¶

(d) Cities and counties shall set standards to reduce out-of-direction travel for people using the pedestrian or bicycle networks.¶¶

(3) Cities and counties must have land use regulations in commercial and mixed-use districts that provide for a compact development pattern, easy ability to walk or use mobility devices, and allow direct access on the pedestrian, bicycle, and public transportation networks. Land use regulations must meet the following requirements for commercial or mixed-use site design:¶¶

(a) Primary pedestrian entrances to buildings shall be oriented to a public street and be accessible to people with mobility disabilities. An uninterrupted accessway, courtyard, plaza, or other pedestrian-oriented space must be provided between primary pedestrian entrances and the public pedestrian facility, except where the entrance opens directly to the pedestrian facility. All pedestrian entrances shall be designed to be barrier-free.¶¶

(b) No vehicular parking, circulation, access, display, or loading shall be permitted on-site between buildings and public streets. Bicycle parking may be permitted.¶¶

(c) On-site accessways shall be provided to directly connect key pedestrian entrances to public pedestrian facilities, to any on-site parking, and to adjacent properties, as applicable.¶¶

(d) Any pedestrian entrances facing an on-site parking lot must be secondary to primary pedestrian entrances as required in this section. Primary pedestrian entrances must be open during business hours.¶¶

(e) Large sites must be designed with a connected network of public streets to meet the requirements of this section.¶¶

(f) Development on sites adjacent to a transit stop or station on a priority transit corridor must be oriented to the transit stop or station. The site design must provide a high level of pedestrian connectivity and amenities adjacent to the stop or station. Cities and counties must establish standards to provide for transit infrastructure where needed if there is inadequate space in the existing right of way.¶¶

(g) Development standards must be consistent with bicycle parking requirements in OAR 660-012-0630.¶¶

(h) Cities and counties may provide for alternatives to requirements in this section where site constraints prevent meeting them. Alternative requirements must protect and prioritize pedestrian access.¶¶

(4) Cities and counties must have land use regulations in residential neighborhoods that provide for slow neighborhood streets comfortable for families, efficient and sociable development patterns, and provide for connectivity within the neighborhood and to adjacent districts. Cities and counties must regularly review land use regulations to meet these objectives, including but not limited to those related to setbacks, lot size and coverage, building orientation, and access.¶¶

(5) Cities and counties must have land use regulations that ensure auto-oriented land uses are compatible with a community where it is easy to walk or use a mobility device. Auto-oriented land uses include uses related to the operation, sale, maintenance, and fueling of motor vehicles, as well as land uses where the use of a motor vehicle is accessory to the primary use, including drive-through uses. Land use regulations must include:¶¶

(a) Auto-oriented land uses must meet the site design requirements in this rule.¶¶

- (b) Auto-oriented land uses must provide safe and convenient access opportunities for people walking, using a mobility device, or riding a bicycle. Access to goods and services must be equivalent to or better than access for people driving a motor vehicle.¶¶
 - (c) Outside of climate friendly areas, where a permitted auto-oriented land use may not reasonably meet a site design standard prescribed in this rule due to the nature of the use, the city or county may prescribe an alternate standard. Alternate standards must protect pedestrian facilities.¶¶
 - (6) Cities and counties with an urban area over 100,000 in population must have reasonable land use regulations that allow for development of low-car districts. These districts must be developed with no-car or low-car streets, where walking or using mobility devices are the primary methods of travel within the district. Cities and counties must make provisions for emergency vehicle access and local freight delivery. Low-car districts must be allowed in locations where residential or mixed-use development is authorized.¶¶
 - (7) Cities and counties must implement land use regulations to protect transportation facilities, corridors, and sites for their identified functions. These regulations must include, but are not limited to:¶¶
 - (a) Access control actions consistent with the function of the transportation facility, including but not limited to driveway spacing, median control, and signal spacing;¶¶
 - (b) Standards to protect future construction and operation of streets, transitways, paths, and other transportation facilities;¶¶
 - (c) Standards to protect public use airports as provided in OAR 660-013-0080;¶¶
 - (d) Processes to make a coordinated review of future land use decisions affecting transportation facilities, corridors, or sites;¶¶
 - (e) Processes to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites for all transportation modes;¶¶
 - (f) Regulations to provide notice to public agencies providing transportation facilities and services, Metropolitan Planning Organizations, the Oregon Department of Transportation, and the Oregon Department of Aviation of:¶¶
 - (A) Land use applications that require public hearings;¶¶
 - (B) Subdivision and partition applications;¶¶
 - (C) Other applications which affect private access to roads; and¶¶
 - (D) Other applications within airport noise corridors and imaginary surfaces which affect airport operations.¶¶
 - (g) Regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and performance standards of facilities identified in the TSP.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0340

RULE SUMMARY: This rule provides for how local governments in metropolitan areas make land use assumptions when developing a transportation system plan.

CHANGES TO RULE:

660-012-0340

Land Use Assumptions

(1) A city or county must develop and adopt future land use assumptions consistent with this rule when preparing a transportation system plan or designating a climate friendly area as provided in OAR 660-012-0315. Future land use assumptions must include the planning horizon year of the transportation system plan and a common horizon year for all jurisdictions within the metropolitan area.¶¶

(2) Future land use assumptions must be consistent with the most recent final population forecast as provided in OAR 660-032-0020.¶¶

(3) Future land use assumptions must assume existing acknowledged comprehensive plan designations and policies, and existing land use regulations remaining in force throughout the planning period; except where these designations, policies, or regulations are superseded by statute or rule. Future land use assumptions must assume existing acknowledged urban growth boundaries throughout the planning period.¶¶

(4) Where applicable, future land use assumptions must allocate growth assumptions within the capacity of employment and housing within climate friendly areas designated as provided in OAR 660-012-0310 before allocating growth to other parts of the city or county. Notwithstanding section (3), future land use assumptions may assume reasonable levels of development as provided in OAR 660-012-0325 within climate friendly areas.¶¶

(5) Future land use assumptions must be developed at a sufficient level of detail to understand where future development is expected. Future land use assumptions are used for transportation system development and analysis.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0350

RULE SUMMARY: This rule provides for how local governments in metropolitan areas are consistent with transportation planning requirements when making expansions to an urban growth boundary.

CHANGES TO RULE:

660-012-0350

Urban Growth Boundary Expansions

(1) A city and county must meet the following requirements prior to undertaking an urban growth boundary expansion as provided in OAR 660-024-0020(1) or OAR 660-038-0020(13).¶

(a) The city must have an acknowledged transportation system plan as provided in OAR 660-012-0100. If the county has responsibility for planning in urban unincorporated areas as provided in OAR 660-012-0110, the county must also have an acknowledged transportation system plan for the urban area as provided in OAR 660-012-0100.¶

(b) The city and county must have submitted all regular reports as provided in OAR 660-012-0900 and have had each report approved by order as provided in OAR 660-012-0915.¶

(c) The city and county must have designated climate friendly areas as provided in OAR 660-012-0310 and must demonstrate compliance with OAR 660-008-0010(2).¶

(d) The city and county must have adopted land use regulations as provided in OAR 660-012-0330.¶

(2) A city and county must meet the following requirements as part of the urban growth boundary expansion process as provided in OAR 660-024-0020(1) or OAR 660-038-0020(13).¶

(a) The city and county must assess the ability of lands within the existing urban growth boundary to accommodate the additional levels of growth expected. Cities and counties must assume that the future development of climate friendly areas and more land-efficient and transportation-efficient patterns of development across the urban area will be different and more intensive than existing patterns of development.¶

(b) Lands otherwise of the same level of priority category for an urban growth boundary expansion as provided in OAR 660-024-0067 or OAR 660-038-0170 may be prioritized by determining the potential level of access to existing urban pedestrian, bicycle, and transit networks, and the ability of those networks to be extended to the candidate areas for expansion.¶

(c) Transportation system planning assumptions developed to make decisions about an urban growth boundary expansion must be consistent with targets set under measures as provided in OAR 660-012-0910 and must result in a reduction in Vehicle Miles Traveled per capita.¶

(d) Transportation system planning assumptions developed to make decisions about an urban growth boundary expansion may not assume the construction of any facility required to be reviewed as provided in OAR 660-012-0830 if the proposed facility has not been authorized.¶

(e) The city and county must determine if the designation of additional lands as part of climate friendly areas will be required to meet the targets for households within these areas, as provided in OAR 660-012-0310.¶

(3) Where an urban growth boundary is intended to follow an existing or planned street, road, or highway right-of-way, the boundary shall be placed on the rural side of the right-of-way or planned right-of-way, so that the right-of-way is inside the urban growth boundary.¶

(4) Cities and counties with areas added to an urban growth boundary where the requirements of OAR 660-012-0060 are not applied at the time of urban growth boundary amendment as provided in OAR 660-024-0020 or OAR 660-038-0020 must update the land use assumptions as provided in OAR 660-012-0340 prior to an update of the transportation system plan as provided in OAR 660-012-0105.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0360

RULE SUMMARY: This rule provides key destinations that local governments in metropolitan areas use to develop transportation system plans.

CHANGES TO RULE:

660-012-0360

Key Destinations

(1) Cities and counties shall use the key destinations described in this rule, as well as other destinations determined locally, for purposes of coordinated land use and transportation planning.

(2) Key destinations include, but are not limited to:

(a) Climate friendly areas;

(b) Pedestrian-oriented commercial areas outside of climate friendly areas;

(c) Transit stations, stops, and terminals;

(d) Retail and service establishments, including grocery stores;

(e) Child care facilities, schools, and colleges;

(f) Parks, recreation centers, paths, trails, and open spaces;

(g) Farmers markets;

(h) Libraries, government offices, community centers, arts facilities, post offices, social service centers, and other civic destinations;

(i) Medical or dental clinics and hospitals;

(j) Major employers;

(k) Gyms and health clubs;

(l) Major sports or performance venues; and

(m) Other key destinations determined locally.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0400

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must implement parking reform.

CHANGES TO RULE:

660-012-0400

Parking Management

(1) Cities and counties shall adopt comprehensive plans and land use regulations that implement provisions of OAR 660-012-0405 through OAR 660-012-0415.¶

(2) Cities and counties shall remove parking mandates under OAR 660-012-0420. In lieu of removing parking mandates, cities and counties may amend their comprehensive plans and land use regulations to implement provisions of OAR 660-012-0425, OAR 660-012-0430, OAR 660-012-0435, OAR 660-012-0440, OAR 660-012-0445, and OAR 660-012-0450.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0405

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must implement parking regulations.

CHANGES TO RULE:

660-012-0405

Parking Regulation Improvements

(1) Cities and counties shall adopt land use regulations as provided in this section:¶

(a) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;¶

(b) Property owners shall be allowed to redevelop any portion of existing off-street parking areas for bicycle-oriented and transit-oriented facilities, including bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities;¶

(c) Property owners shall be allowed to redevelop any portion of existing off-street parking areas for transit-oriented developments on lots or parcels within one-half mile pedestrian travel of transit with a scheduled arrival frequency of at least four times per hour during peak service; and¶

(d) In applying subsections (b) and (c), codes must allow property owners to go below existing mandated minimum parking supply, and access for emergency vehicles must be retained.¶

(2) Cities and counties shall adopt policies and land use regulations that allow and encourage the conversion of existing underused parking areas to other uses.¶

(3) Cities and counties shall adopt policies and land use regulations that allow and facilitate shared parking.¶

(4) Cities and counties shall adopt land use regulations for any new development that includes more than one-quarter acre of surface parking on a lot or parcel as provided below:¶

(a) Developments must provide one of the following:¶

(A) Installation of solar panels with a generation capacity of at least 0.5 kW per parking space on the property. Panels may be located anywhere on the property. In lieu of developing solar on site, cities may allow developers to pay \$1,500 per parking space in the development into a city fund dedicated to equitable solar or wind energy development or a fund at the Oregon Department of Energy designated for such purpose. Developments subject to OAR 330-135-0010 shall be exempt; or¶

(B) Tree canopy covering at least 50 percent of the parking lot at maturity but no more than 15 years after planting. Trees planted under this requirement must meet the standards in subsection (b).¶

(b) Developments must provide street trees along driveways but not drive aisles. The tree spacing and species planted must be designed maintain a continuous canopy. Local codes must provide clear and objective standards to achieve such a canopy. Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species. Trees should be planted in continuous trenches where possible. The city or county shall have minimum standards for planting and tree care no lower than 2021 American National Standards Institute A300 standards, and a process to ensure ongoing compliance with tree planting and maintenance provisions; and¶

(c) Developments must provide street-like design and features along driveways including curbs, pedestrian facilities, and buildings built up to pedestrian facilities.¶

(d) Development of a tree canopy plan under this section shall be done in coordination with the local electric utility, including pre-design, design, building and maintenance phases.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0410

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for electric vehicle charging.

CHANGES TO RULE:

660-012-0410

Electric Vehicle Charging

(1) Cities and counties shall adopt regulations requiring new development to support electric vehicle charging as allowed under ORS 455.417 and 455.040.¶

(2) For new multifamily residential buildings with five or more residential dwelling units, and new mixed-use buildings consisting of privately owned commercial space and five or more residential dwelling units, cities and counties shall require the installation of sufficient electrical service capacity, as defined in ORS 455.417(1)(c), to accommodate:¶

(a) Level 2 or above electric vehicle charging stations serving 20 percent of all parking spaces; and¶

(b) Level 1 electric vehicle charging serving an additional 30 percent of total parking spaces, Level 2 electric vehicle charging stations serving an additional 15 percent of total parking spaces, or direct current fast charging stations serving an additional five percent of total parking spaces.¶

(3) For commercial buildings under private ownership, cities and counties shall require the installation of sufficient electrical service capacity as directed under ORS 455.417.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0415

RULE SUMMARY: This rule provides for how larger local governments in metropolitan areas must implement parking maximums and evaluate parking.

CHANGES TO RULE:

660-012-0415

Parking Maximums and Evaluation in More Populous Communities

(1) Cities with populations over 100,000, counties with populations over 100,000 outside city limits but within the urban growth boundary, and cities with populations over 25,000 within Metro, shall set parking maximums in climate-friendly areas and in regional centers and town centers, designated under the Metro Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries map. Those cities and counties shall also set parking maximums on lots or parcels within the transit corridors and rail stop areas designated in OAR 660-012-0440.

(a) Parking maximums shall be no higher than 1.2 off-street parking spaces per studio unit and two off-street parking spaces per non-studio residential unit in a multi-unit development in climate friendly areas and along priority transit corridors. These maximums shall include visitor parking.

(b) Parking maximums shall be no higher than five spaces per 1,000 square feet of floor space for all commercial and retail uses other than automobile sales and repair, eating and drinking establishments, and entertainment and commercial recreation uses.

(c) For land uses with more than 65,000 square feet of floor area, surface parking shall not consist of more area than the floor area of the building.

(d) In setting parking maximums, cities and counties shall consider setting maximums equal to or less than 150 percent of parking minimums set forth in a parking table in their code as of January 1, 2020. A city or county that sets a higher parking maximum must adopt findings for doing so. In no case shall the city or county exceed the limits in subsections (a) through (c) in climate friendly areas and for developments on parcels or lots within one-half mile of transit corridors and three-quarters mile of rail transit stops described in OAR 660-012-0440.

(e) Non-surface parking, such as tuck-under parking, underground and subsurface parking, and parking structures may be exempted from the calculations in this section.

(2) Cities with populations over 150,000 shall, in addition to requirements in section (1) of this rule:

(a) Study use of priced on-street timed parking spaces in those areas subject to OAR 660-012-0435 or 660-012-0440. This study shall be conducted every three years or more frequently. Cities shall adjust prices to ensure availability of on-street parking spaces at all hours. This shall include all spaces in the city paid by minutes, hours, or day but need not include spaces where a longer-term paid residential permit is required.

(b) Use time limits or pricing to manage on-street parking spaces in an area at least one year before authorizing any new structured parking on city-owned land including more than 100 spaces in that area after March 31, 2023.

(c) Adopt procedures ensuring prior to approval of construction of additional structured parking projects of more than 300 parking spaces designed to serve existing uses, developer of that parking structure must implement transportation demand management strategies for a period of at least six months designed to shift at least 10 percent of existing vehicle trips ending within one-quarter mile of the proposed parking structure to other modes; and

(d) Adopt design requirements requiring applicants to demonstrate that the ground floor of new private and public structured parking that fronts a public street and includes more than 100 parking spaces would be convertible to other uses in the future, other than driveways needed to access the garage.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0420

RULE SUMMARY: This rule provides for how local governments in metropolitan areas without parking mandates may be exempted from certain requirements.

CHANGES TO RULE:

660-012-0420

Exemption for Communities without Parking Mandates

(1) Cities and counties that adopt land use regulations that do not include parking mandates are exempt from OAR 660-012-0425 through OAR 660-012-0450.

(2) Cities and counties that retain land use regulations with parking mandates shall conform with OAR 660-012-0425 through OAR 660-012-0450.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0425

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must provide for a variety of approaches to meet parking mandates.

CHANGES TO RULE:

660-012-0425

Reducing the Burden of Parking Mandates

(1) Cities and counties shall adopt and enforce land use regulations as provided in this section:¶

(a) Garages and carports shall not be required for residential developments;¶

(b) Garage parking spaces shall count towards off-street parking mandates;¶

(c) Provision of shared parking shall be allowed to meet parking mandates;¶

(d) Required parking spaces may be provided off-site, within 2,000 feet pedestrian travel of a site. If any parking is provided on site, required parking for people with disabilities shall be on site. If all parking is off-site, parking for people with disabilities must be located within the shortest possible distance of an accessible entrance via an accessible path and no greater than 200 feet from that entrance;¶

(e) Parking mandates shall be reduced by one off-street parking space for each three kilowatts of capacity in solar panels or wind power that will be provided in a development;¶

(f) Parking mandates shall be reduced by one off-street parking space for each dedicated car-sharing parking space in a development. Dedicated car-sharing parking spaces shall count as spaces for parking mandates;¶

(g) Parking mandates shall be reduced by two off-street parking spaces for every parking space with an electric vehicle charging station that will be provided in a development; and¶

(h) Parking mandates shall be reduced by one off-street parking spaces for every two units in a development above minimum requirements that are fully accessible to people with mobility disabilities.¶

(2) Any reductions under section (1) shall be cumulative and not capped.¶

(3) Cities and counties that opt to retain parking mandates under OAR 660-012-0400(2) shall adopt land use regulations requiring the parking for multi-family residential units in the areas in OAR 660-012-0440 be unbundled parking.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0430

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must reduce parking mandates for some types of development.

CHANGES TO RULE:

660-012-0430

Reduction of Parking Mandates for Development Types

(1) Cities and counties shall not require more than one parking space per unit in residential developments with more than one unit.~~¶~~

(2) Cities and counties shall not require parking for the following development types:~~¶~~

(a) Facilities and homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, including but not limited to a: residential care facility, residential training facility, residential treatment facilities, residential training home, residential treatment home, and conversion facility as defined in ORS 443.400;~~¶~~

(b) Child care facility as defined under ORS 329A.250;~~¶~~

(c) Single-room occupancy housing;~~¶~~

(d) Residential units smaller than 750 square feet;~~¶~~

(e) Affordable housing as defined in OAR 660-039-0010;~~¶~~

(f) Publicly-supported housing as defined in ORS 456.250;~~¶~~

(g) Emergency and transitional shelters for people experiencing homelessness; and~~¶~~

(h) Domestic violence shelters.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0435

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement parking reform in climate friendly areas.

CHANGES TO RULE:

660-012-0435

Parking Reform in Climate Friendly Areas

(1) Cities and counties shall adopt land use regulations addressing parking mandates in climate friendly areas as provided in OAR 660-012-0310. Cities and counties in Metro shall adopt land use regulations addressing parking mandates in regional centers and town centers designated under the Metro Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries map. In each such area, cities and counties shall either:

(a) Remove all parking mandates within the area and on parcels in its jurisdiction that include land within one-quarter mile distance of those areas; or

(b) Manage parking by:

(A) Adopting a parking benefit district with paid on-street parking and some revenues dedicated to public improvements in the area;

(B) Adopting land use amendments to require no more than one-half off-street parking space per new housing unit in the area; and

(C) Not enforcing parking mandates for commercial developments.

(2) Cities and counties that opt to retain parking mandates under OAR 660-012-0400(2) shall adopt land use regulation requiring the parking for multi-family residential units in the areas listed in section (1) be unbundled parking.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0440

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement parking reform near transit corridors and stops.

CHANGES TO RULE:

660-012-0440

Parking Reform near Transit Corridors

(1) Cities and counties shall not require parking spaces for developments on a lot or parcel within one-half mile of priority transit corridors or three-quarters mile of rail transit stops.¶

(2) Until cities and counties identify priority transit corridors under OAR 660-012-0710 and amend land use regulations as provided in section (1), cities and counties shall not enforce parking mandates for developments within one-half mile of:¶

(a) Bus service arriving with a scheduled frequency of at least four times an hour during peak service; and¶

(b) The most frequent transit routes in the community if the scheduled frequency is at least once per hour during peak service.¶

(3) Cities and counties may use either walking distance or straight-line distance in measuring distances under sections (1) and (2).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0445

RULE SUMMARY: This rule provides options for how local governments in metropolitan areas implement improved parking management

CHANGES TO RULE:

660-012-0445

Parking Management Alternative Approaches

- (1) In lieu of adopting land use regulations without parking mandates under OAR 660-012-0420, cities and counties may select and implement either a fair parking policy approach as provided in subsection (a) of this section, or a reduced regulation parking management approach as provided in subsection (b) of this section.
- (a) A fair parking policy approach shall include at least three of the following five provisions:
- (A) A requirement that parking spaces for each residential unit in developments that include five or more leased or sold residential units on a lot or parcel be unbundled parking. Cities and counties may exempt townhouse and rowhouse development from this requirement.
- (B) A requirement that parking spaces serving leased commercial developments be unbundled parking.
- (C) A requirement for employers of 50 or more employees who provide free or subsidized parking to their employees at the workplace provide a flexible commute benefit of \$50 per month or the fair market value of that parking, whichever is greater, to those employees eligible for that free or subsidized parking who regularly commute via other modes instead of using that parking.
- (D) A tax on the revenue from commercial parking lots collecting no less than 10 percent of income, with revenues dedicated to improving transportation alternatives to drive-alone travel; and
- (E) A reduction of parking mandates for new multifamily residential development to no higher than 0.5 space per unit, including visitor parking.
- (b) A reduced regulation parking management approach shall include all of the following:
- (A) A repeal of all parking mandates within one-half mile pedestrian travel of climate friendly areas.
- (B) A repeal of parking mandates for transit-oriented development and mixed-use development.
- (C) A repeal of parking mandates for group quarters, including but not limited to dormitories, religious group quarters, adult care facilities, retirement homes, and other congregate housing.
- (D) A repeal of parking mandates for studio apartments, one-bedroom apartments and condominiums in residential developments of five or more units on a lot or parcel.
- (E) A repeal of parking mandates for change of use of, or redevelopment of, buildings vacant for more than two years. Cities and counties may require registration of a building as vacant two years prior to the waiving of parking mandates.
- (F) A repeal of requirements to provide additional parking for change of use, redevelopment, or expansion of existing businesses.
- (G) A repeal of parking mandates for buildings within a National Historic District, on the National Register of Historic Places, or on a local inventory of historic resources or buildings.
- (H) A repeal of parking mandates for properties that have fewer than ten on-site employees or 3000 square feet floor space.
- (I) A repeal of parking mandates for developments built under the Oregon Residential Reach Code.
- (J) A repeal of parking mandates for developments seeking certification under any Leadership in Energy and Environmental Design (LEED) rating system, as evidenced by either proof of pre-certification or registration and submittal of a complete scorecard.
- (K) A repeal of parking mandates for schools.
- (L) A repeal of parking mandates for bars and taverns.
- (M) Setting parking maximums consistent with OAR 660-012-0415(1), notwithstanding populations listed in that section; and
- (N) Designation of at least one residential parking district or parking benefit district where on-street parking is managed through permits, payments, or time limits.
- (2) Cities and counties may change their selection between subsections (1)(a) and (b) at any time.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0450

RULE SUMMARY: This rule provides for how larger local governments in metropolitan areas manage on-street parking.

CHANGES TO RULE:

660-012-0450

Parking Management in More Populous Communities

(1) Cities with populations over 100,000 shall either:

(a) Adopt land use regulations without parking mandates; or

(b) Price at least 10 percent of on-street parking spaces, and report the percentage of on-street parking spaces that are priced as provided in OAR 660-012-0900. Residential parking permits priced at lower than \$15 per month, 50 cents per day per space, or equivalent amounts do not count towards this total.

(2) Cities may change their selection made between subsections (1)(a) or (b) at any time.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0500

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the pedestrian network in a transportation system plan.

CHANGES TO RULE:

660-012-0500

Pedestrian System Planning

(1) Transportation system plans must include a pedestrian system element that meets the requirements of this rule. For the purposes of this division, the pedestrian system is intended to serve people walking, mobility devices, or other devices that operate at a similar speed and scale as people walking. The pedestrian system is intended to serve most short trips under one mile in cities.[¶]

(2) A pedestrian system element must include the following elements:[¶]

(a) The complete pedestrian system as described in section (3) of this rule that includes the full buildout of the pedestrian system within the urban growth boundary;[¶]

(b) Identification of gaps and deficiencies in the pedestrian system as described in section (4);[¶]

(c) Locations of key pedestrian destinations as described in OAR 660-012-0360; and[¶]

(d) A list of prioritized pedestrian system projects as described in OAR 660-012-0520.[¶]

(3) The complete pedestrian system is the full build out of a complete pedestrian system within the planning area.

A city determines the complete pedestrian system plan by:[¶]

(a) Using the pedestrian system inventory developed under OAR 660-012-0505 as a base;[¶]

(b) Adding the minimum pedestrian facilities to places that do not presently meet the minimum pedestrian system requirements in OAR 660-012-0510; and[¶]

(c) Adding enhanced facilities above the minimum pedestrian system requirements where the city finds that enhanced facilities are necessary or desirable to meet the goals of the city's comprehensive plan.[¶]

(4) Cities must identify gaps and deficiencies in the pedestrian system by comparing the complete pedestrian system plan with the pedestrian system inventory developed under OAR 660-012-0505. Cities must include any part of the complete pedestrian system not presently built to the standard in the complete pedestrian system plan as a gap or deficiency.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0505

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the pedestrian network in a transportation system plan.

CHANGES TO RULE:

660-012-0505

Pedestrian System Inventory

(1) Pedestrian system inventories must include information on pedestrian facilities and street crossings for all areas within climate friendly areas, within one-quarter mile of all schools, and along all arterials and collectors. Pedestrian system inventories must also include information on all pedestrian facilities, including shared use paths.¶

(a) Inventories of pedestrian facilities must include information on width and condition.¶

(b) Inventories of street crossings must include crossing distances, the type of crossing, closed crossings, curb ramps, and distance between crossings.¶

(2) Pedestrian system inventories must include the crash risk factors of inventoried pedestrian facilities, including but not limited to speed, volume, and roadway width. Pedestrian system inventories must also include the location of all reported injuries and deaths of people walking or using a mobility device. This must include all reported incidents from at least five years prior to the transportation system plan base year to the year of adoption of the pedestrian system inventory.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0510

RULE SUMMARY: This rule provides for pedestrian network standards for local transportation system plans in metropolitan areas.

CHANGES TO RULE:

660-012-0510

Pedestrian System Requirements

(1) This rule describes the minimum planned pedestrian facilities that must be included in plans. Cities and counties may choose to exceed the requirements in this rule.¶

(2) Pedestrian facility owners must design, build, and maintain pedestrian facilities to allow comfortable travel for all people, including people with disabilities.¶

(3) All streets and highways, other than expressways, shall have pedestrian facilities, as provided in ORS 366.514.¶

(a) Pedestrian facilities must be planned for both sides of each street.¶

(b) Cities must plan for enhanced pedestrian facilities such as wide, protected sidewalks and pedestrian zones, such as plazas, in the following contexts:¶

(A) Along high volume or high-speed streets:¶

(B) In climate friendly areas:¶

(C) In areas with concentrations of underserved populations identified as provided in OAR 660-012-0125.¶

(c) A substantial portion of the right-of-way in climate friendly areas must be dedicated to pedestrian uses, including but not limited to sidewalks, pedestrian plazas, and protective buffers.¶

(d) Cities must plan for enhanced tree canopy and other infrastructure that uses natural and living materials in pedestrian spaces in climate friendly areas and areas with concentrations of underserved populations identified as provided in OAR 660-012-0125.¶

(4) Off-street multi-use paths must be designed to permit comfortable joint or separated use for people walking, using mobility devices, and cycling. Separated areas for higher speeds and low speeds shall be provided when there is high anticipated use of the path.¶

(5) Enhanced crossings are pedestrian facilities to cross streets or highways that provide a high level of safety and priority to people crossing the street. Enhanced crossings must have adequate nighttime illumination to see pedestrians from all vehicular approaches. Enhanced crossings must be provided, at minimum, in the following locations:¶

(a) Closely spaced along arterial streets in climate friendly areas:¶

(b) Near transit stops on access-focused arterial or collector street in a climate friendly area or on a priority transit corridor:¶

(c) At off-street path crossings; and¶

(d) In areas with concentrations of underserved populations identified as provided in OAR 660-012-0120.¶

(6) Cities may take exemptions to the requirements in this rule through findings in the transportation system plan, for each location where an exemption is desired, for the following reasons:¶

(a) A city may plan for a pedestrian facility on one side of local streets in locations where topography or other barriers would make it difficult to build a pedestrian facility on the other side of the street, or where existing and planned land uses make it unnecessary to provide pedestrian access to the other side of the street. Street crossings must be provided near each end of sections where there is a pedestrian facility on only one side of the street.¶

(b) A city may plan for no dedicated pedestrian facilities on very slow speed local streets that are sufficiently narrow, and carry little or no vehicular traffic, so that pedestrians are the primary users of the street.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0520

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of pedestrian system projects in a transportation system plan.

CHANGES TO RULE:

660-012-0520

Pedestrian System Projects

(1) Cities must develop pedestrian project prioritization factors that are able to sort the list of pedestrian system projects into a prioritized list of pedestrian system projects. Cities must develop pedestrian project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.

(2) Cities must use pedestrian project prioritization factors to prioritize the following factors above other factors:

(a) Pedestrian system investments in climate friendly areas;

(b) Pedestrian system investments in areas with concentrations of underserved populations, identified as provided in OAR 660-012-0125;

(c) Pedestrian system investments in areas pedestrian safety risk factors such as roadways with high speeds and high traffic volumes;

(d) Pedestrian system investments in areas with reported pedestrian serious injuries and deaths;

(e) Pedestrian system investments that provide access to key pedestrian destinations;

(f) Pedestrian system investments that will connect to, fill gaps in, and expand the existing pedestrian network;

(g) Pedestrian system investments that prioritize pedestrian travel consistent with the prioritization factors in OAR 660-012-0155; and

(h) Where applicable, pedestrian system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.

(3) The transportation system plan must include a description of the prioritization factors and method of prioritizing pedestrian projects used to develop the prioritized list of pedestrian system projects.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0600

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the bicycle network in a transportation system plan.

CHANGES TO RULE:

660-012-0600

Bicycle System Planning

(1) Transportation system plans must include a bicycle system element that meets the requirements of this rule. The bicycle system must be designed to provide safe and comfortable routes for a range of users and abilities. For the purposes of this division, the bicycle system is intended to serve people riding bicycles and other vehicles that operate at a similar speed and scale to people riding bicycles. These vehicles include, but are not limited to: electric bicycles, kick-style and electric scooters, and skateboards; and do not include motorcycles.

(2) A bicycle system element must include the following elements:

(a) The complete bicycle system as described in section (3) that includes the full buildout of the bicycle system within the urban growth boundary;

(b) Identification of gaps and deficiencies in the bicycle system as described in section (4);

(c) Locations of key bicycle destinations as described in OAR 660-012-0360; and

(d) A list of prioritized bicycle system projects as described in OAR 660-012-0620.

(3) The complete bicycle system is the full build out of a complete bicycle system within the planning area. A city determines the complete bicycle system plan by:

(a) Using the bicycle system inventory developed under OAR 660-012-0605 as a base;

(b) Adding the minimum bicycle facilities to places that do not presently meet the minimum bicycle system requirements in OAR 550-012-0610; and

(c) Adding enhanced facilities above the minimum bicycle system requirements where the city finds that enhanced facilities are necessary or desirable to meet the goals of the city's comprehensive plan.

(4) Cities must identify gaps and deficiencies in the bicycle system by comparing the complete bicycle system with the bicycle system inventory developed under OAR 660-012-0605. Cities must include any part of the complete bicycle system not presently built to the standard in the complete bicycle plan as a gap or deficiency.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0605

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the bicycle network in a transportation system plan.

CHANGES TO RULE:

660-012-0605

Bicycle System Inventory

(1) Bicycle system inventories must include information on bicycle lanes, bicycle routes, paths, and other types of bicycle facilities, including pedestrian facilities that may be used by bicycles. Inventories must include information on width, type, and condition.¶¶

(2) Bicycle system inventories must include information on bicycle facilities of all types within climate friendly areas, within one-quarter mile of all schools, on designated neighborhood bikeways, and along all arterials and collectors.¶¶

(3) Bicycle system inventories must include the crash risk factors of inventoried bicycle facilities, including but not limited to speed, volume, separation, and roadway width. Bicycle system inventories must also include the location of all reported injuries and deaths of people on bicycles. This must include all reported incidents from at least five years prior to the transportation system plan base year to the year of adoption of the bicycle system inventory.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0610

RULE SUMMARY: This rule provides for bicycle network standards for local transportation system plans in metropolitan areas

CHANGES TO RULE:

660-012-0610

Bicycle System Requirements

(1) This rule describes the minimum planned bicycle facilities that must be included in plans. Cities may choose to exceed the requirements in this rule.¶

(2) Cities and counties must plan for a connected network of bicycle facilities that provides a safe, low stress, direct, and comfortable experience for people of all ages and abilities. A connected network is comprised of both the ability to access key destinations within a community and enough coverage of safe and comfortable facilities to ensure most people within the community can travel by bicycle.¶

(a) Cities and counties must design the connected network to connect to key destinations as provided in OAR 660-012-0360, and to and within each climate friendly area.¶

(b) Cities and counties must design the connected network to permit most residents of the planning area to access the connected network with an emphasis on mitigating uncomfortable or unsafe facilities or crossings.¶

(c) The connected network shall consist of connected bicycle facilities including, but not limited to, separated and protected bicycle facilities, bicycle boulevards, and multi-use or bicycle paths. The connected network must include a series of interconnected bicycle facilities and provide direct routes to key destinations. Cities and counties must design comfortable and convenient crossings of streets with high volumes or traffic or high-speed traffic.¶

(3) Cities and counties must plan and design bicycle facilities considering the context of adjacent motor vehicle facilities and land uses.¶

(a) Cities and counties must design bicycle facilities with higher levels of separation or protection along streets that have higher volumes or speeds of traffic.¶

(b) Cities and counties must plan for separated or protected bicycle facilities on streets in climate friendly areas and other places with a concentration of destinations. Separated or protected bicycle facilities may not be necessary on streets with very low levels of motor vehicle traffic or where a high-quality parallel bicycle facility on the connected network exists within one block.¶

(c) Cities and counties must identify locations with existing bicycle facilities along high traffic or high-speed streets where the existing facility is not protected or separated, or parallel facilities do not exist. Cities and counties must plan for a transition to appropriate facilities in these locations.¶

(4) Cities and counties must use the transportation prioritization framework in OAR 660-012-0155 when making decisions about bicycle facilities.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0620

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of bicycle system projects in a transportation system plan.

CHANGES TO RULE:

660-012-0620

Bicycle System Projects

- (1) Cities must develop a list of bicycle system projects that would address all the gaps and deficiencies in the bicycle system identified by the city under OAR 660-012-0600(4).¶
- (2) Cities must develop bicycle project prioritization factors that are able to sort the list of bicycle system projects into a prioritized list of bicycle system projects. Cities must develop bicycle project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.¶
- (3) Cities must use bicycle project prioritization factors to prioritize the following factors above other factors:¶
 - (a) Bicycle system investments in climate friendly areas;¶
 - (b) Bicycle system investments in areas with concentrations of underserved populations, identified as provided in OAR 660-012-0125;¶
 - (c) Bicycle system investments in areas with safety risk factors such as roadways with high speeds and high traffic volumes;¶
 - (d) Bicycle system investments in areas with reported serious injuries and deaths to people riding bicycles;¶
 - (e) Bicycle system investments that provide access to key bicycle destinations;¶
 - (f) Bicycle system investments system investments that will connect to, fill gaps in, and expand the existing bicycle system network;¶
 - (g) Bicycle system investments that prioritize bicycle travel consistent with the prioritization factors in OAR 660-012-0155; and¶
 - (h) Where applicable, bicycle system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.¶
- (4) The transportation system plan must include a description of the prioritization factors and method of prioritizing bicycle projects used to develop the prioritized list of bicycle system projects.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0630

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement bicycle parking requirements.

CHANGES TO RULE:

660-012-0630

Bicycle Parking

(1) Cities and counties must require and plan for adequate bicycle parking to meet the increasing need for travel by bicycle.¶¶

(2) Cities and counties shall require covered, secure bicycle parking for all new multifamily development or mixed-use development of four units or more, and new office and institutional developments. Such bicycle parking must include at least one bicycle parking space for each residential unit and facilities for charging electric bicycles, electric wheelchairs, and other small-scale electric mobility devices. Charging must be available for simultaneous charge of electric mobility devices parked in 40 percent of spaces.¶¶

(3) Cities and counties shall require bicycle parking for all new retail development. Such bicycle parking shall be located within a short distance from the main retail entrance.¶¶

(4) Cities and counties shall require bicycle parking for all major transit stations and park-and-ride lots.¶¶

(5) Cities and counties must require bicycle parking in climate friendly areas, and near key destinations as provided in OAR 660-012-0360.¶¶

(6) Cities and counties must allow and provide for parking and ancillary facilities for shared bicycles or other small-scale mobility devices in climate friendly areas, and near key destinations as provided in OAR 660-012-0360.¶¶

(7) Cities and counties must require at least as many bicycle parking spaces as mandated off-street motor vehicle parking spaces for any new land use where off-street motor vehicle parking is mandated.¶¶

(8) Cities and counties must ensure that all bicycle parking provided must:¶¶

(a) Allow ways to secure at least two points on a bicycle;¶¶

(b) Be installed in a manner to allow space for the bicycle to be maneuvered to a position where it may be secured without conflicts from other parked bicycles, walls, or other obstructions;¶¶

(c) Be in a location that is convenient and well-lit; and¶¶

(d) Include sufficient bicycle parking spaces to accommodate large bicycles, including family and cargo bicycles.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0700

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the public transportation network in a transportation system plan.

CHANGES TO RULE:

660-012-0700

Public Transportation System Planning

(1) Transportation system plans must include a public transportation system element that meets the requirements of this rule. Cities and counties must work in close cooperation with transit service providers in order to complete the public transportation system element of the transportation system plan.

(a) Cities and counties shall coordinate with public transportation service providers to develop the public transportation system plan element.

(b) The public transportation system plan element must include elements of the public transportation system that are in the control of the city, county, and coordinating transportation facility owners.

(c) The public transportation system plan element must identify elements of the public transportation system that the city or county will work with transit service providers to realize or improve, including transit priority corridors, transit supportive infrastructure, and stop amenities.

(d) Cities and counties must align the public transportation system plan transit element with Transit Development Plans, goals, and other strategic planning documents developed by a transit service provider.

(e) Transportation system plans do not control public transportation elements exclusively controlled by transit service providers. These include funding or details of transit service provision, including timetables and routing.

(2) A public transportation system element must include the following elements:

(a) The complete public transportation system as described in section (3) that includes the full buildout and provision of services of the public transportation system within the urban growth boundary;

(b) Identification of gaps and deficiencies in the public transportation system as described in section (4);

(c) Locations of key public transportation destinations as described in OAR 660-012-0360; and

(d) A list of prioritized public transportation system projects as described in OAR 660-012-0720.

(3) The complete public transportation system is the full build out of a complete public transportation system within the planning area. The city or county determines the complete public transportation system plan by:

(a) Using the public transportation system inventory developed under OAR 660-012-0705 as a base; and

(b) Adding the minimum public transportation services and facilities to places that do not presently meet the minimum public transportation system requirements in OAR 660-012-0710.

(4) Cities and counties must identify gaps and deficiencies in the public transportation system by comparing the complete public transportation system with the public transportation system inventory developed under OAR 660-012-0705. Cities and counties must include any part of the complete public transportation system not presently built or operated to the standards in the complete public transportation system plan as a gap or deficiency. Cities and counties must identify gaps in the transit supportive facilities provided on priority transit corridors and other transit corridors identified as provided in OAR 660-012-0710. Transit supportive facilities include, but are not limited to:

(a) Stations, hubs, stops, shelters, signs, and ancillary features; and

(b) Transit priority infrastructure, including signals, queue jumps, and semi exclusive or exclusive bus lanes or transitways.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0705

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the public transportation network in a transportation system plan.

CHANGES TO RULE:

660-012-0705

Public Transportation System Inventory

(1) The public transportation system inventory must include information on local and intercity transit services, including the location of routes, major stations, transit stops, transitways, transit lanes, transit priority signals, queue jumps, on-route charging, and other transit supportive facilities not otherwise inventoried. Accessibility for people with disabilities must be inventoried where applicable.¶¶

(2) The public transportation system inventory must include the identification of existing service characteristics, including frequency and span of service for all services along identified transit priority corridors, serving key destinations, and serving major transit stations.¶¶

(3) Where local or intercity transit services travel outside of the planning area to other cities, the public transportation system inventory must include the identification of routes connecting to the next nearest cities with a population exceeding 9,000, as well as key destinations and major stations these routes.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0710

RULE SUMMARY: This rule provides for public transportation network standards for local transportation system plans in metropolitan areas.

CHANGES TO RULE:

660-012-0710

Public Transportation System requirements

(1) Cities must plan for a connected local transit network that serves key destinations as provided in OAR 660-012-0360, and can be accessed by housing and jobs within the planning area. Cities must identify:¶

(a) Priority transit corridors, which are transit corridors that are planned for the highest levels of regional transit service providing for a wide range of mobility needs; and¶

(b) Other transit corridors, which are planned to carry at least a moderate level of transit service providing for basic mobility needs.¶

(2) Cities and counties must plan for a range of transit supportive facilities along priority transit corridors and in other locations where transit priority is desired. Cities and counties shall:¶

(a) Coordinate with transit service providers to determine transit priority infrastructure needed on priority transit routes for efficient transit service;¶

(b) Prioritize expedited access for transit vehicles to and from major stops, stations, and terminals; and¶

(c) Consider intercity transit access to stations or terminals.¶

(3) Cities must plan for safe and accessible transit stops and stations.¶

(a) Along priority transit corridors and other locations where transit priority is desired, cities and counties must coordinate with transit service providers on the construction of transit supportive facilities. Cities must allow transit service providers to construct amenities at stops outright, with limited permitting requirements. These amenities include but are not limited to: pedestrian facility repair and extension, signage, lighting, benches, and shelters.¶

(b) Cities shall limit on-street parking at transit stop locations at the request of a transit service provider.¶

(4) Cities must coordinate with transit service providers to identify needs for intercity transit services at a level appropriate to the size of the urban area and the size and distance of intercity markets.¶

(5) Cities must coordinate with transit service providers to identify gaps in transit service provided in the transportation system plan, and gaps for each priority transit corridor and other transit corridors.¶

(6) Cities with an urban area of less than 10,000 population need not plan for priority transit corridors.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0720

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of public transportation system projects in a transportation system plan.

CHANGES TO RULE:

660-012-0720

Public Transportation System Projects

(1) Cities must develop a list of public transportation projects that would address all the gaps and deficiencies in the public transportation system identified by the city under OAR 660-012-0700(4).¶

(2) Cities must coordinate with transit service providers to identify the gaps in transit service provided in the transportation system plan and those identified in a land use and transportation scenario plan as provided in OAR 660-044-0110 or in the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission, including the gap in transit miles per capita, and gaps for each priority transit corridor and other transit corridors. The purpose of identifying these gaps is to illustrate the need for transit service operating funds for services operated within the planning area. The transportation system plan need not make provisions for funding operations of transit services directly.¶

(3) Cities must develop public transportation system project prioritization factors that are able to sort the list of public transportation system projects into a prioritized list of public transportation system projects. Cities must develop public transportation project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.¶

(4) Cities must use public transportation project prioritization factors to prioritize the following factors above other factors:¶

(a) Public transportation system investments in climate friendly areas;¶

(b) Public transportation system investments in areas with concentrations of underserved populations, identified as provided in OAR 660-012-0125, particularly in areas with concentrations of people dependent on public transportation;¶

(c) Public transportation system investments that provide access to key public transportation destinations;¶

(d) Public transportation system investments that will connect to, fill gaps in, and expand the existing public transportation network;¶

(e) Public transportation system investments that prioritize transit travel consistent with the prioritization factors in OAR 660-012-0155; and¶

(f) Where applicable, public transportation system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.¶

(5) The transportation system plan must include a description of the prioritization factors and method of prioritizing public transportation projects used to develop the prioritized list of public transportation projects.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0800

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the street and highway network in a transportation system plan.

CHANGES TO RULE:

660-012-0800

Street and Highway System Planning

(1) Transportation System Plans must include a street and highway system element that meet the requirements of this rule.

(2) A street and highway system element must include the following elements:

(a) The complete street and highway system as described in section (3) that includes the full buildout of the street and highway system within the urban growth boundary.

(b) Identification of gaps or deficiencies in the street and highway system as described in section (4);

(c) Locations of key destinations as described in OAR 660-012-0360; and

(d) A list of prioritized street and highway system projects as described in OAR 660-012-0820.

(3) The complete street and highway system is the full build out of a complete street and highway system within the planning area. A city determines the ultimate street and highway system plan by:

(a) Using the street and highway system inventory developed under OAR 660-012-0805 as a base;

(b) Adding the minimum street and highway facilities to places that do not presently meet the minimum street and highway system requirements in OAR 660-012-0810; and

(c) Accommodating the reallocation of right of way on facilities where this is deemed necessary as provided in this division.

(4) Cities must identify gaps and deficiencies in the street and highway system by comparing the complete street and highway system with the street and highway system inventory developed under OAR 660-012-0805. Cities must include any part of the complete street and highway system not presently built to the standard in the ultimate street and highway plan as a gap or deficiency.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0805

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the street and highway network in a transportation system plan.

CHANGES TO RULE:

660-012-0805

Street and Highway System Inventory

(1) Street and highway system inventories must include information on all streets and highways, including the functional classification of each facility.¶

(a) For local streets, inventories must include location.¶

(b) For collector streets, inventories must include location, condition, and number of general-purpose travel lanes, and turn lanes.¶

(c) For arterial streets, inventories must include location, condition, and number of general-purpose travel lanes, turn lanes, and lane width.¶

(d) For expressways and other limited-access highways, inventories must include location, condition, number of general-purpose travel lanes, and lane width. Inventories must also include locations and type of interchanges.¶

(2) Street and highway system inventories must include the location of all reported serious injuries and deaths of people related to vehicular crashes. This must include all reported incidents for at least five years prior to the transportation system plan base year.¶

(3) Street and highway system inventories must include an overview of pricing strategies in use, including specific facility pricing, area or cordon pricing, and parking pricing. Inventories must include pricing mechanisms and rates.¶

(4) Street and highway system inventories must include the location of designated freight routes, and the location of all key freight terminals within the planning area, including intermodal terminals.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0810

RULE SUMMARY: This rule provides for street and highway network standards for local transportation system plans in metropolitan areas.

CHANGES TO RULE:

660-012-0810

Street and Highway System Requirements

(1) Cities and counties must plan, design, build, and maintain a connected streets and highway network in a manner that respects the prioritization factors in OAR 660-012-0155.¶

(a) Cities and counties must plan and streets and highways for the minimum size necessary for the identified function, land use context, and expected users of the facility.¶

(b) Cities and counties must consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, increase safety, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and support connected and safe pedestrian and bicycle networks.¶

(c) Cities and counties must plan for an equitable allocation of right-of-way consistent with the prioritization factors as provided in OAR 660-012-0155. Streets in Climate Friendly Areas and along priority transit corridors must be designed to prioritize pedestrian, bicycle, and transit systems, as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.¶

(2) Cities and counties must plan local streets to provide local access to property and localized circulation within neighborhoods.¶

(a) Cities and counties must plan and design local streets for low and safe travel speeds compatible with shared pedestrian and bicycle use.¶

(b) Cities and counties shall establish standards for local streets with pavement width and right-of-way width as narrow as practical to meet needs, reduce the cost of construction, efficiently use urban land, discourage inappropriate traffic volumes and speeds, improve safety, and accommodate convenient pedestrian and bicycle circulation. Local street standards may allow pavement 28-feet wide where on-street parking is provided on both sides of the street and narrower widths where on-street parking is not permitted. Local street standards adopted by a city or county must be developed as provided in ORS 368.039.¶

(c) Cities and counties must plan and design a complete and connected network of local streets. Cities may plan for chicanes, diverters, or other strategies or devices in local street networks where needed to prevent excessive speed or through travel. These measures must continue to provide for connected and pedestrian and bicycle networks.¶

(d) Cities and counties must avoid planning or designing local streets with a dead end. Dead end local streets may be permitted in locations with topographic or other barriers, or where the street is planned to continue to a connected network in the future.¶

(e) Cities and counties must plan for multimodal travel on local streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710. Cities and counties must plan local streets in Climate Friendly Areas to prioritize pedestrian and bicycle systems, and be limited to local access for motor vehicles.¶

(f) A city or county may plan for local streets to be wider than otherwise allowed in this rule when used exclusively for access to industrial or commercial properties outside of climate -friendly areas, and where plans do not allow residential or mixed-use development.¶

(g) Transportation system plans need not include the specific location of all planned local streets but must describe areas where they will be necessary.¶

(3) Cities and counties must plan collector streets to provide access to property and collect and distribute traffic between local streets and arterials. Cities and counties must plan and design a collector street network that is complete and connected with local streets and arterials.¶

(a) Cities and counties must plan for multimodal travel on collector streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.¶

(b) Cities and counties must plan collectors in Climate Friendly Areas to prioritize pedestrian, bicycle, and public transportation systems.¶

(4) Cities and counties must plan arterial streets and highways to provide travel between neighborhoods and across urban areas. Cities and counties must plan an arterial street network that is complete and connected with local streets and collectors.¶

(a) Cities and counties must designate each segment of an arterial as one of the three categories below in the transportation system plan. These designations must be made considering the intended function, the land use context, and the expected users of the facility. Cities and counties must address these considerations to ensure local plans include different street standards for each category of arterial segment.¶

(A) Cities and counties must plan for local access priority arterial segments to prioritize access to property and connected streets when balancing needs on the facility. Local access priority arterial segments will generally allow for more access locations from property, more opportunities to make turns, more frequent intersections with other streets, and slower speeds.¶¶

(B) Cities and counties must plan for through movement priority arterial segments to prioritize through movement of traffic when balancing needs on the facility. Through movement priority arterial segments will generally prioritize access limited to intersections with the street network, limited access to individual properties, and safe speeds.¶¶

(C) Cities and counties must plan for arterial segments in a climate-friendly area to prioritize multimodal travel as provided in subsection (b). This includes prioritizing complete, connected, and safe pedestrian, bicycle, and public transportation facilities.¶¶

(b) Cities must plan for multimodal travel on or along arterial streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.¶¶

(A) Cities and counties must plan arterials in climate-friendly areas to prioritize pedestrian, bicycle, and public transportation systems.¶¶

(B) Cities and counties must plan arterials along transit priority corridors to prioritize transit service reliability and frequency over general-purpose traffic.¶¶

(5) Cities and counties must carefully consider new or expanded freeways considering goals for reductions in vehicle miles traveled per capita.¶¶

(a) Cities and counties must consider high-occupancy vehicle lanes, including transit lanes, and managed priced lanes on freeways.¶¶

(b) Pedestrian and bicycle facilities should be parallel to freeways, rather than on them. Transit facilities on or along freeways must be designed for direct transit vehicle access.¶¶

(6) Notwithstanding other provisions of this rule, where appropriate, cities and counties must plan and design streets and highways to accommodate:¶¶

(a) Transit vehicles on a segment of a priority transit corridor or transit corridor without dedicated transit lanes or transitway.¶¶

(b) Freight travel on designated freight routes and key freight terminals inventoried as provided in OAR 660-012-0805.¶¶

(c) Agricultural equipment on streets or highways connecting to agriculturally zoned land used for agricultural purposes where equipment access is necessary.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0820

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of street and highway system projects in a transportation system plan.

CHANGES TO RULE:

660-012-0820

Street and Highway System Projects

(1) Cities must develop a list of street and highway system projects that would address the gaps and deficiencies in the street and highway system.¶

(2) Cities must develop street and highway project prioritization factors that are able to sort the list of street and highway system projects into a prioritized list of street and highway system projects. Cities must develop street and highway project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.¶

(3) Cities must use street and highway project prioritization factors to prioritize the following factors above other factors:¶

(a) Street and highway investments that reallocate right-of-way from facilities dedicated to moving motor vehicles to those for use by the pedestrian, bicycle, and public transportation systems, particularly:¶

(A) In Climate Friendly Areas:¶

(B) In areas with concentrations of underserved populations, identified as provided in OAR 660-012-0125; and¶

(C) In areas with reported serious injuries and deaths.¶

(b) Street and highway system investments that will fill gaps in the existing street network:¶

(c) Street and highway system investments consistent with the prioritization factors in OAR 660-012-0155;¶

(d) Street and highway system investments that will help meet the performance targets as provided in OAR 660-012-0910; and¶

(e) Street and highway system investments consistent with a scenario plan approved by order as provided in OAR 660-044-0120.¶

(4) The transportation system plan must include a description of the prioritization factors and method of prioritizing street and highway projects used to develop the prioritized list of street and highway system projects.¶

(5) Cities choosing to include a proposed facility requiring authorization as provided in OAR 660-012-0830 in the transportation system plan must first meet the requirements as provided in OAR 660-012-0830.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0830

RULE SUMMARY: This rule provides for how local governments must review and authorize certain street and highway projects before adding them to a local transportation system plan.

CHANGES TO RULE:

660-012-0830

Enhanced Review of Select Roadway Projects

(1) Cities and counties must review and authorize certain proposed facilities to be included as a planned project or unconstrained project in any part of the local comprehensive plan, including the transportation system plan.¶

(a) The following types of proposed facilities must be reviewed as provided in this rule:¶

(A) A new or extended arterial street, highway, freeway, or bridge;¶

(B) New or expanded interchanges;¶

(C) An increase in the number of general purpose travel lanes for any existing arterial or collector street, highway, or freeway; and¶

(D) New or extended auxiliary lanes with a total length of one-half mile or more. Auxiliary lane means the portion of the roadway adjoining the traveled way for speed change, turning, weaving, truck climbing, maneuvering of entering and leaving traffic, and other purposes supplementary to through-traffic movement.¶

(b) Notwithstanding any provision in subsection (a), the following proposed facilities need not be reviewed or authorized as provided in this rule:¶

(A) Changes expected to have a capital cost of less than \$5 million;¶

(B) Changes that reallocate right of way to provide more space for pedestrian, bicycle, transit, or high-occupancy vehicle facilities;¶

(C) Facilities with no more than one general purpose travel lane in each direction;¶

(D) Changes to intersections that do not increase the number of lanes, including implementation of a roundabout;¶

(E) Access management, including the addition or extension of medians;¶

(F) Modifications necessary to address safety needs; or¶

(G) Operational changes, including changes to signals, signage, striping, surfacing, or intelligent transportation systems.¶

(2) Cities and counties choosing to authorize a proposed facility as provided in this rule must:¶

(a) Initiate the authorization process through action of the governing body of the city or county;¶

(b) Include the authorization process as part of an update to a transportation system plan to meet the requirements as provided in OAR 660-012-0100, or have an existing acknowledged transportation system plan meeting these requirements;¶

(c) Have met all applicable reporting requirements as provided in OAR 660-012-0900;¶

(d) Designate the project limits and characteristics of the proposed facility, including length, number of lanes, or other key features;¶

(e) Designate a facility impact area and determine affected jurisdictions as provided in section (3);¶

(f) Initiate an equity analysis of the proposed facility as provided in OAR 660-012-0135;¶

(g) Develop a public involvement strategy as provided in section (4);¶

(h) Conduct an alternatives review as provided in sections (5) and (6);¶

(i) Choose to move forward with an authorization report as provided in section (7);¶

(j) Complete an authorization report as provided in section (8); and¶

(k) Publish the authorization report as provided in section (9).¶

(3) A city or county designating a facility impact area and determining affected jurisdictions must:¶

(a) Coordinate with all cities and counties with planning jurisdictions within two miles of the limits of the proposed facility to determine the extent of the facility impact area;¶

(b) Review the extent of the impact of the proposed facility by including all areas where implementation of the proposed facility is expected to change levels or patterns of traffic or otherwise change the transportation system or land use development patterns;¶

(c) Take particular care when reviewing the facility impact area in places with concentrations of underserved populations identified as provided in OAR 660-012-0125. The city or county must consider the special impact of new facilities in the context of historic patterns of discrimination, disinvestment, and harmful investments;¶

(d) Designate a facility impact area to include, at minimum, areas within one mile of the proposed facility; and¶

(e) Determine affected jurisdictions by including all cities or counties with planning jurisdictions in the designated facility impact area.¶

(4) A city or county developing a public involvement strategy must, in coordination with affected jurisdictions:¶

(a) Develop the public involvement strategy as provided in OAR 660-012-0130.¶

- (b) Require that the public involvement strategy provides for opportunities for meaningful public participation in decision-making over the course of the authorization process;¶
- (c) Require that the public involvement strategy includes regular reports to the affected governing bodies, planning commissions, and the public on the progress of the authorization process; and¶
- (d) Coordinate the public involvement strategy with other public involvement activities which may be concurrent, including updates to a transportation system plan or authorizations for other proposed facilities.¶
- (5) A city or county choosing to undertake an alternatives review must, in coordination with affected jurisdictions:¶
 - (a) Have designated the facility impact area, determined affected jurisdictions, transit service providers, and transportation options providers; and developed a public consultation strategy as provided in this rule;¶
 - (b) Develop a summary of the expected impacts of the proposed facility on underserved populations identified as provided in OAR 660-012-0125, particularly, but not exclusively, in neighborhoods with concentrations of underserved populations. These impacts must include, but are not limited to, additional household costs, and changes in the ability to access jobs and services without the use of a motor vehicle;¶
 - (c) Develop a summary of the estimated additional motor vehicle travel per capita that is expected to be induced by implementation of the proposed facility over the first 20 years of service, using best available science;¶
 - (d) Investigate alternatives to the proposed facility, as provided in subsections (e) through (h). Cities and counties must use a planning level of analysis, and make use of existing plans and available data as much as practical;¶
 - (e) Investigate alternatives to the proposed facility through investments in the pedestrian and bicycle systems. The city or county must:¶
 - (A) Review the transportation system plan for identified gaps and deficiencies in pedestrian and bicycle facilities within the facility impact area;¶
 - (B) Determine how much of the need for the proposed facility may be met through enhanced investments in the pedestrian and bicycle networks;¶
 - (C) Identify pedestrian and bicycle system investments that could contribute to meeting the identified need which do not require implementation of the proposed facility; and¶
 - (D) Identify pedestrian and bicycle system investments that could contribute to meeting the identified need which may be implemented without the proposed facility, and may be retained if the proposed facility is implemented.¶
 - (f) Investigate alternatives to the proposed facility through investments in the public transportation system. The city or county must:¶
 - (A) Review the transportation system plan for identified gaps and deficiencies in public transportation facilities and services within the facility impact area;¶
 - (B) Coordinate with transit service providers to identify opportunities for providing additional transit service within or to the facility impact area; and¶
 - (C) Identify potential transit facility and service investments that contribute to meeting the identified need which may be implemented without the proposed facility.¶
 - (g) Investigate alternatives to the proposed facility through investments in transportation options programs; or other means to reduce demand for motor vehicle travel. The city or county must:¶
 - (A) Review the transportation system plan for identified existing and needed transportation demand management services within the facility impact area;¶
 - (B) Coordinate with transportation options providers to identify opportunities for providing transportation demand management services in and around the facility impact area; and¶
 - (C) Identify potential transportation options program investments that contribute to meeting the identified need which may be implemented without the proposed facility.¶
 - (h) Investigate alternatives to the proposed facility that include system pricing. The city or county must:¶
 - (A) Determine if various types of pricing could substantially reduce the need for the proposed facility;¶
 - (B) Investigate a range of pricing methods appropriate for the facility type and need, which may include, but are not limited to: parking pricing, tolling, facility pricing, cordon pricing, or congestion pricing; and¶
 - (C) Identify pricing methods where it is reasonably expected to meet the need for the facility, may reasonably be implemented, and can be expected to generate sufficient revenue to cover the costs of operating the collection apparatus.¶
- (6) A city or county completing an alternatives review must, in coordination with affected jurisdictions:¶
 - (a) Review the projects identified in section (5) to determine sets of investments that may be made that could substantially meet the need for the proposed facility without implementation of the proposed facility. A city or county must consider adopted state, regional, and local targets for reduction of vehicle miles traveled to reduce greenhouse gas emissions when making determinations of substantially meeting the need for the proposed facility; and¶
 - (b) Complete an alternatives review report upon completion of the alternatives review phase. The alternatives review report must include a description of the effectiveness of identified alternatives. The alternatives review

report must include the summaries developed in section (5), subsections (b) and (c). The alternatives review report must be provided to the public, and the governing bodies and planning commissions of each affected city or county. The alternatives review report must also be included in the next annual report to the director as provided in OAR 660-012-0900.

(7) The governing body of the city or county shall review the alternatives review report and may either:

(a) Select a set of investments reviewed in the alternatives review report intended to substantially meet the identified need for the proposed facility. These investments may be added to the unconstrained project list of the transportation system plan as provided in OAR 660-012-0170; or

(b) Choose to complete the authorization report for the proposed facility, as provided in section (8).

(8) A city or county choosing to complete an authorization report as provided in section (7) must, after completion of the alternatives review, include the following within the authorization report:

(a) A record of the initiation of the authorization process by the governing body;

(b) The public involvement strategy developed as provided in section (5), and how each part of the public involvement strategy was met;

(c) The alternatives review report;

(d) A summary of the estimated additional long-term costs of maintaining the proposed facility, including expected funding sources and responsible transportation facility operator.

(9) A city or county, upon completing an authorization report, must publish the authorization report and provide it to the public and governing bodies of each affected jurisdiction.

(10) A city or county, having completed and published an authorization report, is permitted to place the proposed project on the list of street and highway system projects with other projects as provided in OAR 660-012-0820. A proposed project authorized as provided in this rule may remain on a project list in the transportation system plan as long there are no substantial changes to the proposed project as described in the authorization report.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0900

RULE SUMMARY: This rule provides for local governments in metropolitan areas to regularly report on progress toward meeting requirements in divisions 12 and 44.

CHANGES TO RULE:

660-012-0900

Reporting

- (1) Cities and counties outside of the planning area of Metro shall report annually on progress toward meeting the requirements in division 44 and this division.¶
- (2) Metro shall prepare a report annually on progress toward meeting the requirements in division 44 and this division. Cities and counties within the planning area of Metro shall coordinate with Metro and provide information to Metro. Cities and counties within the planning area of Metro are not required to report directly to the department as provided in this rule.¶
- (3) Cities, counties, and Metro shall submit the report to the director no later than May 31 of each year for the report for the previous calendar year.¶
- (4) The director shall review reports as provided in OAR 660-012-0915.¶
- (5) Cities, counties, and Metro shall submit either a minor report, as provided in section (6), or a major report, as provided in section (7), each year.¶
- (a) Minor reports shall be submitted each year where a major report is not submitted.¶
- (b) Major reports shall be submitted for each year in which the metropolitan planning organization representing the city or county approved a regional transportation plan as provided in 23 CFR 450.324.¶
- (6) A minor report must include the following information:¶
 - (a) A narrative summary of the state of coordinated land use and transportation planning in the planning area over the reporting year, including any relevant activities or projects undertaken or planned by the city or county;¶
 - (b) A copy of the order approving the report from the previous reporting year as provided in OAR 660-012-0915;¶
 - (c) The planning horizon date of the acknowledged transportation system plan, a summary of any amendments made to the transportation system plan over the reporting year, and a forecast of planning activities over the near future which may include amendments to the transportation system plan;¶
 - (d) The findings from reports made in the reporting year for progress towards centering the voices of underserved populations in processes at all levels of decision-making as provided in OAR 660-012-0130 and a summary of any equity analyses conducted as provided in OAR 660-012-0135;¶
 - (e) Any temporary projects implemented as provided in OAR 660-012-0200;¶
 - (f) Any alternatives reviews undertaken as provided in OAR 660-012-0830, including those underway or completed; and¶
 - (g) For reporting cities and counties:¶
 - (A) A description of what immediate actions the city or county has considered to be taken to reduce greenhouse gas emissions as provided in ORS 184.899(2); and¶
 - (B) A description of the consultations with the metropolitan planning organization on how the regional transportation plan could be altered to reduce greenhouse gas emissions as provided in ORS 184.899(2).¶
- (7) A major report must include the following information:¶
 - (a) All information required in a minor report as provided in section (6);¶
 - (b) Reporting for each regional and local performance measures as provided in OAR 660-012-0905 or OAR 660-044-0110 including:¶
 - (A) Baseline data;¶
 - (B) Baseline projections of expected outcomes from existing adopted plans;¶
 - (C) An assessment of whether the city, county, or Metro has met or is on track to meet each performance target for each reporting year between the base year and planning horizon year as provided in OAR 660-012-0910;¶
 - (D) For any performance targets that were not met, a proposal for the corrective actions that will be taken to meet the performance target by the next major report;¶
 - (E) An assessment of whether the reporting city or county has adopted local amendments to implement the approved land use and transportation scenario plan as provided in OAR 660-044-0130;¶
 - (F) For any amendments to implement the approved land use and transportation scenario plan as provided in OAR 660-044-0130 that have not yet been adopted, a proposal for the corrective actions that will be taken to adopt the amendments; and¶
 - (G) The status of any corrective actions identified in prior reports.¶
 - (8) Upon a written request for an exemption submitted to the department prior to the due date of a report, the director may grant a city or county an exemption to a requirement to include any required element of a report

under sections (6) or (7) when the director determines that the requestor has established that collection and reporting of the information would not be possible or would place an undue burden on the city or county.[¶]

(9) Counties need only report for those portions of the county within an urban growth boundary inside the metropolitan area. A county may jointly report with a city for the entire urban growth area of the city.[¶]

(10) Reports as provided by this rule are not land use decisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0905

RULE SUMMARY: This rule provides for a minimum set of transportation performance measures for local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0905

Land Use and Transportation Performance Measures

(1) Cities, counties, and Metro that have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0050 or OAR 660-044-0120 shall report on the performance measures from the approved regional scenario plan.¶¶

(2) Cities and counties that do not have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0120 shall report on the specific actions, including capital improvements and the adoption of policies that they have or will undertake to reduce pollution and increase equitable outcomes for underserved populations. At a minimum, this report must include the following performance measures:¶¶

(a) Compact Mixed-use Development¶¶

(A) Number of publicly supported affordable housing units in climate friendly areas.¶¶

(B) Number of existing and permitted dwelling units in climate friendly areas and percentage of existing and permitted dwelling units in climate friendly areas relative to total number of existing and permitted dwelling units in the jurisdiction.¶¶

(C) Share of retail and service jobs in climate friendly areas relative to retail and service jobs in the jurisdiction.¶¶

(b) Active Transportation¶¶

(A) Percent of collector and arterials streets in climate friendly areas and underserved population neighborhoods with bicycle and pedestrian facilities with Level of Traffic Stress 1 or 2.¶¶

(B) Percent of collector and arterial roadways in climate friendly areas and underserved population neighborhoods with safe and convenient marked pedestrian crossings.¶¶

(C) Percent of transit stops with safe and marked pedestrian crossings within 100 feet.¶¶

(c) Transportation Options¶¶

(A) Number of employees covered by an Employee Commute Options Program.¶¶

(B) Number of households engaged with Transportation Options activities.¶¶

(C) Percent of all Transportation Options activities that were focused on underserved population communities.¶¶

(d) Transit¶¶

(A) Share of households within one-half mile of a priority transit corridor.¶¶

(B) Share of low-income households within one-half mile of a priority transit corridor.¶¶

(C) Share of key destinations within one-half mile of a priority transit corridor.¶¶

(e) Parking Costs and Management: Average daily public parking fees in climate friendly areas.¶¶

(f) Transportation Systems Investments¶¶

(A) Percent of jurisdiction transportation budget spent in climate friendly areas and underserved population neighborhoods.¶¶

(B) Share of investments that support modes of transportation with low pollution.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0910

RULE SUMMARY: This rule provides for how targets are set against transportation performance standards for local governments in metropolitan areas.

CHANGES TO RULE:

660-012-0910

Land Use and Transportation Performance Targets

(1) Cities and counties must set performance targets for each reporting year for each performance measure provided in OAR 660-044-0110 and OAR 660-012-0905 in their local transportation system plan. Performance targets for the performance measures provided in OAR 660-012-0905 must be set at levels that are reasonably likely to achieve the regional performance targets from an approved land use and transportation scenario plan as provided in OAR 660-044-0110 or the regional performance targets from the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission.¶¶

(2) Cities and counties that have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0120 must set targets for equity performance measures in a transportation system plan as provided in OAR 660-044-0110(7)(c).¶¶

(3) Cities and counties shall set performance targets in any major update to their transportation system plan as provided in OAR 660-012-0105. If a city or county has not yet set targets and is submitting a major report as provided in OAR 660-012-0900(7), then the city or county shall set performance targets through a minor update to their transportation system plan.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0915

RULE SUMMARY: This rule provides for how regular reports are reviewed by the department.

CHANGES TO RULE:

660-012-0915

Review of Reports

(1) Upon receipt of a submitted minor report as provided in OAR 660-012-0900(6):¶

(a) The director shall make a preliminary determination of completeness within 30 calendar days of receipt and shall notify the submitter of any missing items required under OAR 660-012-0900(6) that is not subject to an exemption under OAR 660-012-0900(8).¶

(b) The submitter must submit information to the department within 30 days of the director's notification under subsection (a), unless the submitter requests, and the director grants, an extension of time to submit the missing information, for a period not to exceed 90 additional days.¶

(c) If the submitter does not submit the missing information within the time allotted by the director, the director may refer the report for a compliance hearing as provided in OAR 660-012-0920.¶

(d) Once a minor report submitted as provided in OAR 660-012-0900(6) is determined to be complete, the director shall post the minor report on the department website and send notice of approval to the submitter.¶

(2) Upon receipt of a submitted major report as provided in OAR 660-012-0900(7):¶

(a) The director shall make a preliminary determination of completeness within 30 calendar days of receipt and shall notify the submitter of any missing items required under OAR 660-012-0900(7) that is not subject to an exemption under OAR 660-012-0900(8).¶

(b) The submitter must submit information to the department within 30 days of the director's notification under subsection (a), unless the submitter requests, and the director grants, an extension of time to submit the missing information, for a period not to exceed 90 additional days. If the submitter does not submit additional information, the director shall proceed with review of the submission as provided in sections (3) and (4).¶

(c) If the director does not notify the submitter of missing items within 30 days of submittal, the director shall proceed with review of the submission as provided in sections (3) and (4).¶

(3) Upon completion of the process in section (2), the director shall:¶

(a) Post a complete copy of the major report on the department's website along with the alternative findings the director may make in section (4), and a statement that any person may file a written comment regarding the submitted report no more than 21 days after the posting of the report.¶

(b) Provide notice to persons described under ORS 197.615(3)(a), directing them to the posting described in subsection (a) and informing them that they may file a written comment regarding the submitted report no more than 21 days after the posting of the report.¶

(4) Within 60 days of completion of the process in section (2), the director shall:¶

(a) Find that the submitter has met the performance targets as provided in OAR 660-012-0910, and has adopted local amendments to implement any approved land use and transportation scenario plan as provided in OAR 660-044-0130:¶

(b) Find that the submitter has proposed adequate corrective actions to address any performance targets that were not met and adequate to meet any performance targets as provided in OAR 660-012-0910:¶

(c) Find that the submitter has not met a performance target as provided in OAR 660-012-0910 and has proposed inadequate corrective actions; or¶

(d) Find that the submitter has not implemented an approved land use and transportation scenario plan as provided in OAR 660-044-0130 and proposed inadequate corrective actions.¶

(5) If the director makes findings described in subsections (4)(a) or (b):¶

(a) The director shall issue an order approving the report. The department shall post an approval order on a public website and send notice to the submitter, and persons who provided written comment under section (3). The order must include information on the process to appeal the director's order as described in this rule.¶

(b) A person who has provided written comment under section (3) may appeal the director's order to the commission. An appeal is valid only if the appeal clearly identifies a deficiency in the submitted report based on the requirements of this division on issues raised in the written comments.¶

(c) The director shall determine if the appeal filed is valid, and the director's determination of validity is final.¶

(d) If no valid appeals are filed in response to the director's order, the order is final.¶

(e) If any valid appeals are filed in response to the director's order, then the director shall refer the report for a compliance hearing as provided in OAR 660-012-0920.¶

(6) If the director makes findings described in subsections (4)(c) or (d), then the director shall refer the report for a compliance hearing as provided in OAR 660-012-0920.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-012-0920

RULE SUMMARY: This rule provides for compliance hearings held by the commission

CHANGES TO RULE:

660-012-0920

Compliance Hearings

- (1) The commission shall hold a compliance hearing in response to referral from the director at its next regularly scheduled meeting that is at least 30 days after the referral.¶
- (2) The commission may hold a compliance hearing on its own motion or in response to an allegation that a city, county, or Metro has:¶
 - (a) Missed a deadline in this division;¶
 - (b) Missed a deadline in OAR 660-044-0015;¶
 - (c) Failed to implement corrective actions required by this division; or¶
 - (d) Failed to comply with a requirement in this division.¶
- (3) The department shall post notice of a compliance hearing on a public website and send notice to the parties.¶
- (4) At the compliance hearing the commission shall:¶
 - (a) Consider the director's written and oral report; and¶
 - (b) Consider oral testimony and written testimony provided at least 14 days prior to the hearing from a city, a county, or Metro and any persons who provided written comment as provided in OAR 660-012-0915(3)(b).¶
- (5) The commission may evaluate the compliance of the cities and counties within a metropolitan area in a collective evaluation, or the commission may evaluate the compliance of an individual city or county separately.¶
- (6) If the commission finds that that a report meets the requirements of this division, or that the city, county or Metro is in compliance with the requirements of this division, then the commission shall issue an order of approval.¶
- (7) If the commission finds a city, a county, or Metro out of compliance with the requirements of this division, the commission may use any authority granted to commission, including but not limited to the actions below.¶
 - (a) Issue an order to remand a report with specific directions for changes necessary to comply with this division;¶
 - (b) Issue an enforcement order as provided in ORS 197.319 through 197.335.¶
 - (c) Issue an order to invalidate the acknowledgement of local transportation system plans that are not consistent with an approved Land use and Transportation Scenario Plan.¶
 - (d) Provide notice to the Oregon Department of Transportation and the United States Department of Transportation of the lack of compliance with state planning requirements.¶
- (8) The director shall mail the order to all parties.¶
- (9) A commission order under this rule may be reviewed as provided in ORS 183.484 for orders in other than a contested case. Reports and orders as provided in this rule are not land use decisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

AMEND: 660-036-0000

RULE SUMMARY: This rule incorporates Rocky Habitat Management Strategy text and site designations for Part Three of the Oregon Territorial Sea Plan.

CHANGES TO RULE:

660-036-0000

Territorial Sea Plan ¶

The Land Conservation and Development Commission adopts and herein incorporates by reference the ~~Territorial Sea Plan approved by the Ocean Policy Advisory Council on August 12, 1994, as part of the Oregon Coastal Management Program~~ as part of the Oregon Coastal Management Program, the Territorial Sea Plan:¶

(1) Part One (Ocean Management Framework) approved by the Ocean Policy Advisory Council on August 12, 1994.¶

(2) Part Two (Making Resource Use Decisions) approved by the Ocean Policy Advisory Council on August 12, 1994.¶

(3) Part Three (Rocky Habitat Management Strategy) approved by the Ocean Policy Advisory Council on November 4, 2021.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 183.310 - 183.550, ORS 196.465, ORS 196.471, ORS 197.040

Statutes/Other Implemented: ORS 196.465, ORS 196.471, ORS 197.040

REPEAL: 660-036-0004

RULE SUMMARY: This rule incorporated (in 1999) amended site management designations in the Cape Arago headland area.

CHANGES TO RULE:

~~660-036-0004~~

~~Territorial Sea Plan: Rocky Shores Management at Cape Arago~~

~~The Land Conservation and Development Commission adopts as part of the Oregon Coastal Management Program, and herein incorporates by reference, an amendment to the Territorial Sea Plan approved by the Ocean Policy Advisory Council on June 4, 1999, replacing rocky shore management prescriptions and management area designations on pages 139 through 146 pertaining to the rocky shores of the Cape Arago headland.¶~~

~~[Publications: Publications referenced are available from the agency.]~~

~~Statutory/Other Authority: ORS 197~~

~~Statutes/Other Implemented: ORS 196.471~~

AMEND: 660-044-0000

RULE SUMMARY: Changes to update the purpose statement for the division

CHANGES TO RULE:

660-044-0000

Purpose ¶

(1) This division implements provisions of chapter 865, section 37(6), Oregon Laws 2009, and chapter 85, section 5(1), Oregon Laws 2010, that direct the Land Conservation and Development Commission ("commission") to adopt rules setting targets for reducing greenhouse gas emissions from light vehicle travel in metropolitan areas consistent with Oregon Land Use Planning Goal 12 (Transportation), and the state goal in ORS 468A.205 to reduce the state's greenhouse gas emissions in 2050 to 75 percent below 1990 levels.¶

(2) This division also implements provisions of Oregon Laws 2009, chapter 865, section 38 regarding land use and transportation scenario planning to reduce greenhouse gas emissions in the Portland metropolitan area. The commission's intent and expectation is that the requirements set forth in this division will be integrated into and addressed as part of existing procedures for coordinated regional planning in the Portland metropolitan area. The requirements set forth in this division for scenario planning apply only to the Portland metropolitan area. Nothing in this division is intended to require other metropolitan areas to conduct scenario planning, or pro. The purpose of this division is to significantly, and as rapidly as possible, reduce climate pollutants that are causing increasing climate disruption. Cities, counties, metropolitan planning organizations, and Metropolitan Service for commission or department review or approval of scenario plans that other metropolitan areas may develop or adopt. While a preferred scenario may include assumptions about state or federal policies, programs, or actions that would be put in place to reduce greenhouse gas emissions, nothing in this division or commission approval of a preferred scenario is intended to grant authority to the commission, Metro or local governments to approve or require implementation of those policies, programs or actions. District serving the Portland metro area (Metro) are encouraged to take actions beyond the minimum requirements of this division to make large reductions in pollution rapidly.¶

(3) The targets in this division provide guidance to local governments in metropolitan areas on the level of reduction in greenhouse gas emissions this division requires cities, counties, and Metro to achieve as they conduct land use and transportation scenario planning. Large transportation and land use plans transportation scenario planning to meet the targets in this division is required of the Portland metropolitan area significantly reduce pollution from light vehicles. This division places specific requirements on Metro in area and is encouraged, but not required, in other metropolitan areas. Success in developing scenarios that meet the targets will depend in large part on the state funding for scenario planning; on the state developing strategies and actions that reduce greenhouse gas emissions from light vehicle travel within cognition of its unique status in the Portland region. This division also requires cities and counties within other metropolitan areas; and on state and local governments jointly and actively engaging the public on the costs and benefits of reducing greenhouse gas emissions.¶

(4) Regions to work together to prepare a preferred land use and transportation scenario planning is intended to that describes a means for local governments in metropolitan areas to explore ways that urban development future set of aspirational transportation facilities, alternative future land use patterns, and transportation systems would need to be changed to achieve significant reductions in policies that will reduce greenhouse gas emissions from light vehicle travel. Scenario planning is a means to address benefits and costs of different actions to accomplish reductions in ways that allows. This division requires the cities and communities to assess how to meet other important needs, including accommodating economic development and housing needs, expanding transportation options and reducing transportation costs.¶

(5) The expected result of land use and transportation scenario planning is information on the extent of changes to land use patterns and transportation systems in metropolitan areas needed to significantly reduce greenhouse gas emissions from light vehicle travel in metropolitan areas, including information about the benefits and costs of achieving those reductions. The results of land use and transportation scenario planning are expected to inform local governments as they update their comprehensive within a metropolitan area to prepare a transportation and land use scenario plan that will define and implement a preferred scenario, identifies performance measures for tracking progress, and works to not only avoid or mitigate any impacts to underserved populations, and but to inform the legislature, state agencies and the public as the state develops and implements an overall strategy to meet state goals to reduce greenhouse gas emissions.¶

(6) The greenhouse gas emissions reduction targets in this division are intended to guide land use and transportation scenario planning. The targets are based on available information and current estimates about key factors, including improvements in vehicle technologies and fuels. Pursuant to OAR 660-044-0035, the commission shall review the targets by June 1, 2021, based on the results of scenario planning, and updated

information about expected changes in vehicle technologies and fuels, state policies and other factors.¶

(7) Success in meeting the targets will require a combination of local, regional and state actions. State actions include not only improvements in vehicle technology and fuels, but also other statewide efforts to reduce greenhouse gas emissions from light vehicle travel. The Oregon Department of Transportation prepared a Statewide Transportation Strategy describing state actions that could be implemented to reduce greenhouse gas emissions. As metropolitan areas develop scenario plans to reduce greenhouse gas emissions and compare them to the targets in this division, it is incumbent that metropolitan areas and the state work as partners, with a shared responsibility of determining how local and statewide actions and programs can reach the targets.¶

(8) Nothing in this division is intended to amend statewide planning goals or administrative rules adopted to implement statewide planning goal improve outcomes for these communities over time.¶

(3) It is the purpose of this division to reduce inequities for underserved populations. The land use and transportation scenario planning process and the local implementation process must prioritize underserved populations so that the actions that reduce pollution also reduce the historic inequities from prior transportation and land use plans.

Statutory/Other Authority: ORS 197.040; Ch 865 OL 2009 (HB 2001) ¶ 37(6) and (8); Ch 85 OL 2010 Special Session (SB 1059) ¶ 5

Statutes/Other Implemented: Ch 865 OL 2009 (HB 2001) ¶ 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) ¶ 5

AMEND: 660-044-0005

RULE SUMMARY: Changes to some definitions and addition of some new definitions.

CHANGES TO RULE:

660-044-0005

Definitions ¶

For the purposes of this division, the definitions in ORS 197.015 and the statewide planning goals apply. In addition, the following definitions shall apply:¶

(1) "Climate Friendly Area" means land uses designated under OAR 660-012-0315.¶

(2) "Community-based conversations" means accessible and inclusive community meetings held for areas with above-average concentrations of underserved community members.¶

(3) "Design type" means the conceptual areas described in the Metro Growth Concept text and map in the Metro's regional framework plan, including central city, regional centers, town centers, station communities, corridors, main streets, neighborhoods, industrial areas and employment areas.¶

(24) "Equitable outcomes" means outcomes including:¶

(a) Increased stability of underserved populations, lowering the likelihood of displacement due to gentrification from public and private investments;¶

(b) More accessible, safe, affordable and equitable transportation choices with better connectivity to destinations people want to reach (e.g. education, jobs, services, shopping, places of worship, parks and open spaces, and community centers);¶

(c) Adequate housing with access to employment, education, and fresh food, goods, services, recreational and cultural opportunities, and social spaces;¶

(d) Increased safety for people in public spaces, transportation and community development;¶

(e) Equitable access to parks, nature, open spaces and public spaces;¶

(f) Better and more racially equitable health outcomes across the lifespan, particularly health outcomes connected to transportation choices, air pollution, and food;¶

(g) Recognizing and remedying impacts of past practices such as redlining, displacement, exclusionary zoning, and roadway and other public infrastructure siting decisions that harmed underserved communities; and¶

(h) Fairly-distributed benefits to residents and local governments across cities and counties within metropolitan areas.¶

(5) "Framework plan" or "regional framework plan" means the plan adopted by Metro as defined by ORS 197.015(16).¶

(36) "Functional plan" or "regional functional plan" means an ordinance adopted by Metro to implement the regional framework plan through city and county comprehensive plans and land use regulations.¶

(47) "Greenhouse gas" has the meaning given in ORS 468A.210. Greenhouse gases are measured in terms of carbon dioxide equivalents, which means the quantity of a given greenhouse gas multiplied by a global warming potential factor provided inconsistent with a state-approved emissions reporting protocol method.¶

(58) "Greenhouse gas emissions reduction target" or "target" means a reduction from 2005 emission levels of per capita greenhouse gas emissions from travel in light vehicles. Targets are the reductions beyond reductions in emissions that are likely to result from the use of improved vehicle technologies and fuels. Travel in light vehicles includes all travel by members of households or university group quarters living within a metropolitan area regardless of where the travel occurs, and local commercial vehicle travel that is a function of household labor or demand regardless of where the travel occurs. Examples include commuting to work, going to school, going shopping, traveling for recreation, delivery vehicles, service vehicles, travel to business meetings, and travel to jobsites.¶

(69) "Land use and transportation scenario planning" means the preparation and evaluation by local governments of two or more land use and transportation scenarios and the cooperative selection of a preferred land use and transportation scenario that accommodates planned population and employment growth while achieving a reduction in greenhouse gas emissions from light vehicle travel in the metropolitan area and an increase in equitable outcomes for underserved community members. Land use and transportation scenario planning may include preparation and evaluation of alternative scenarios that do not meet targets specified in this division.¶

(710) "Light vehicles" means motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.¶

(811) "Metro" means the metropolitan service district organized for the Portland metropolitan area under ORS Chapter 268.¶

(912) "Metropolitan planning area" or "metropolitan area" means lands within the planning area boundary of a metropolitan planning organization.¶

(103) "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 U.S.C. § 5303(c). The Longview-Kelso-Rainier metropolitan planning organization and the Walla Walla Valley metropolitan planning organization are not metropolitan planning organizations for the purposes of this division.¶

(14) "Planning period" means the period of time over which the expected outcomes of a scenario plan are estimated, measured from a 2005 base year, to a future year that corresponds with greenhouse gas emission targets set forth in this division.¶

(12) "Preferred land use and transportation scenario" means a ~~generalized plan for the Portland metropolitan area adopted by Metro through amendments to the regional framework plan~~ plan for a metropolitan area that achieves the targets for reducing greenhouse gas emissions set forth in OAR 660-044-0020 and 660-0440-0025 as provided in OAR 660-044-0040.¶

~~(13 and 660-044-0110)~~¶

(16) "Underserved Populations" means the same as provided in OAR 660-012-0125 (2).¶

(17) "Statewide Transportation Strategy" means the statewide strategy ~~accepted~~ adopted by the Oregon Transportation Commission as part of the state transportation policy to aid in achieving the greenhouse gas emissions reduction goals set forth in ORS 468A.205 as provided in Oregon Laws 2010, chapter 85, section 2; Oregon Laws 2010.

Statutory/Other Authority: ORS 197.040; Ch 865 OL 2009 (HB 2001) § 37(6) and (8); Ch 85 OL 2010 Special Session (SB 1059) § 5

Statutes/Other Implemented: Ch 865 OL 2009 (HB 2001) § 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) § 5

ADOPT: 660-044-0015

RULE SUMMARY: This rule that expands the scenario planning requirements to cities and counties beyond the Portland metropolitan area and provides compliance dates for conducting that work.

CHANGES TO RULE:

660-044-0015

Applicability - Compliance Schedule

(1) OAR 660-044-0000 through OAR 660-044-0020, OAR 660-044-030, and OAR 660-044-0040 through OAR 660-044-0060 of this division apply to Metro. OAR 660-044-0055 applies to the cities and counties within Metro.¶

(2) OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division apply to the cities and counties within the metropolitan planning area of the Central Lane Metropolitan Planning Organization as provided in subsections (a) and (b).¶

(a) These cities and counties must:¶

(A) Submit a work program containing all of the elements provided in OAR 660-044-0100 to the department for review under section (4) by December 31, 2022;¶

(B) Prepare a land use and transportation scenario plan based provided in OAR 660-044-0110 and submit it for review by the commission as provided in OAR 660-044-0120 by December 31, 2023 or another date in the approved work program;¶

(C) Adopt local amendments as provided in OAR 660-044-0130 by December 31, 2024, or other date in the approved work program.¶

(b) These cities and counties may use the preferred scenario submitted to the commission and legislature in 2015 as required by Oregon Laws 2010, Chapter 865, as the basis for the land use and transportation scenario plan. If these cities and counties use the preferred scenario from 2015, then they:¶

(A) Are neither required to redo the prior work that produced the preferred scenario, nor comply with requirements of OAR 660-044-0110 specific to the preferred scenario.¶

(B) Are required to produce only the additional elements that build on the preferred scenario to prepare a complete transportation and land use scenario plan, as provided in OAR 660-044-0110(3) and 660-044-0110(7) through (10).¶

(3) OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division apply to the cities and counties within the metropolitan planning area of the Salem-Keizer Area Transportation Study. These cities and counties must:¶

(a) Submit a work program containing all of the elements provided in OAR 660-044-0100 to the department by June 30, 2023;¶

(b) Submit an assessment of how close the adopted local plans would come to achieving the regional performance targets from the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission by June 30, 2023;¶

(c) Prepare a land use and transportation scenario plan as provided in OAR 660-044-0110 and submit it for review by the commission as provided in OAR 660-044-0120 by June 30, 2025, or another date in the approved work program; and¶

(d) Adopt local amendments as provided in OAR 660-044-0130 by June 30, 2026, or another date in the approved work program.¶

(4) Cities and counties may request, and the director or commission may approve, applying OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division to the cities and counties within a metropolitan area and establishing compliance schedule under the following procedures.¶

(a) Cities and counties within a metropolitan area may jointly submit a proposed work program or resubmit a revised work program as provided in OAR 660-044-0100.¶

(b) The department shall consult with the Oregon Department of Transportation to review a proposed work program. The director may approve the work program or refer the work program to the commission with recommended revisions.¶

(c) If the director refers a proposed work program to the commission under subsection (b), the commission shall hold a hearing to review the proposed work program and the recommended revisions. The commission may approve the work program based on OAR 660-044-0100 or remand the work program with required revisions.¶

(5) The commission may issue an order applying OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division to cities and counties within a metropolitan area and establishing compliance deadlines using the procedures below.¶

(a) The department will provide the cities and counties a draft order with compliance schedule prior to a

commission hearing.[¶]

(b) The commission will hold a hearing and consider any revised or alternate order proposed by cities or counties, and any public testimony.[¶]

(c) When considering whether to issue an order, the commission shall consider the following factors using the best available data:[¶]

(A) Greenhouse gas emissions including actual measurements, model estimates, recent trends, and future projections under current adopted plans;[¶]

(B) Local transportation and land use actions that influence greenhouse gas emissions and more equitable outcomes, including adopted plans, recent actions by cities and counties, and development trends;[¶]

(C) Population growth including recent trends and future projections;[¶]

(D) Presence or absence of regional cooperation on greenhouse gas emissions reduction;[¶]

(E) Vehicles miles traveled per capita by residents of the metropolitan area, including actual measurements, model estimates, recent trends, and future projections under current adopted plans; and[¶]

(F) State and local funding available for scenario planning.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

AMEND: 660-044-0020

RULE SUMMARY: This rule makes changes to existing rule extending horizon years for targets.

CHANGES TO RULE:

660-044-0020

Greenhouse Gas Emissions Reduction Target for the Portland Metropolitan Area ¶

(1) Metro shall use the greenhouse gas emissions reduction targets in this rule as it develops ~~two or more alternative, reviews, and updates~~ a land use and transportation scenarios that accommodates planned population and employment growth while achieving a reduction in greenhouse gas emissions from light vehicle travel in the metropolitan area as required by OAR 660-044-0040 through 660-044-0060.¶

(2) This rule only applies to the Portland metropolitan area.¶

(3) The greenhouse gas emissions reduction target is a 20 percent reduction in the year 2035.¶

(4) Targets for the years 2040 ~~through 2050~~ and beyond are:¶

(a) By 2040, a 25 percent reduction.¶

(b) By 2041, a 26 percent reduction.¶

(c) By 2042, a 27 percent reduction.¶

(d) By 2043, a 28 percent reduction.¶

(e) By 2044, a 29 percent reduction.¶

(f) By 2045, a 30 percent reduction.¶

(g) By 2046, a 31 percent reduction.¶

(h) By 2047, a 32 percent reduction.¶

(i) By 2048, a 33 percent reduction.¶

(j) By 2049, a 34 percent reduction.¶

(k) By 2050 and beyond, a 35 percent reduction.

Statutory/Other Authority: ORS 197.040; Ch. 865 OL 2009 (HB 2001) ¶37(6); Ch. 85 OL 2010 Special Session (SB 1059) ¶5

Statutes/Other Implemented: Ch. 865 OL 2009 (HBI 2001) ¶37(6), Ch. 85 OL 2010 Special Session (SBI 1059) ¶5

AMEND: 660-044-0025

RULE SUMMARY: This rule makes changes to existing rule making targets mandatory and extending horizon years for targets.

CHANGES TO RULE:

660-044-0025

Greenhouse Gas Emissions Reduction Targets for Other Metropolitan Areas ¶

(1) Purpose and effect of targets ¶

~~(a):~~ Local governments in metropolitan planning areas not covered by OAR 660-044-0020 ~~may~~shall use the relevant targets set forth in section (2) of this rule as they conduct land use and transportation ~~scenario~~ planning to reduce greenhouse gas emissions. ¶

~~(b):~~ This rule does not require that local governments or metropolitan planning organizations conduct land use and transportation scenario planning. This rule does not require that local governments or metropolitan planning organizations that choose to conduct land use or transportation scenario planning develop or adopt a preferred land use and transportation scenario plan to meet targets in section (2) of this rule. ¶

~~(2) Targets for the years 2040 through 2050 are:~~ ¶

~~(a) By 2040 targets by year are:~~ ¶

(a) By 2040 or earlier, a 20 percent reduction. ¶

(b) By 2041, a 21 percent reduction. ¶

(c) By 2042, a 22 percent reduction. ¶

(d) By 2043, a 23 percent reduction. ¶

(e) By 2044, a 24 percent reduction. ¶

(f) By 2045, a 25 percent reduction. ¶

(g) By 2046, a 26 percent reduction. ¶

(h) By 2047, a 27 percent reduction. ¶

(i) By 2048, a 28 percent reduction. ¶

(j) By 2049, a 29 percent reduction. ¶

(k) By 2050 and beyond, a 30 percent reduction.

Statutory/Other Authority: ORS 197.040; Ch. 865 OL 2009 (HB 2001) ¶ 37(6); Ch. 85 OL 2010 Special Session (SB 1059) ¶ 5

Statutes/Other Implemented: Ch. 865 OL 2009 (HBI 2001) ¶ 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) ¶ 5

AMEND: 660-044-0030

RULE SUMMARY: This rule makes changes to existing rule clarifying connection between greenhouse gas targets and vehicle miles traveled per capita.

CHANGES TO RULE:

660-044-0030

Methods for Estimating Greenhouse Gas Emissions and Emissions Reductions ¶

(1) Applicability: ~~If~~When local governments within a metropolitan area are conducting land use and transportation ~~scenario~~-planning to demonstrate that their plans would meet the greenhouse gas emissions reductions targets established in this division, then they shall use the provisions and options in this rule to project future emissions.¶

(2) ~~Projected Emission Rates: Projections of greenhouse gas emissions must use~~Vehicle Miles Traveled: The greenhouse gas emissions reduction targets as provided in OAR 660-044-00250 and 660-044-0025 are the emission rates specified in subsection (a) or the flexible option described in subsection (b).¶

~~(a)ratio of future year to base year vehicle miles traveled per capita after controlling for the effects of state and federal policies on vehicles, fuels, and pricing.¶~~

~~(3) Projected Emission Rates: Projections of greenhouse gas emissions may use that use emission rates listed below, which are based on that reflect implementation of the State Actions in the Statewide Transportation Strategy and reflect reductions likely to result by the use of improved vehicle technologies and fuels. Rates are measured in grams of carbon dioxide equivalent per vehicle mile.¶~~

~~(A) In 2040, 140 grams per mile.¶~~

~~(B) In 2041, 134 grams per mile.¶~~

~~(C) In 2042, 128 grams per mile.¶~~

~~(D) In 2043, 123 grams per mile.¶~~

~~(E) In 2044, 117 grams per mile.¶~~

~~(F) In 2045, 112 grams per mile.¶~~

~~(G) In 2046, 108 grams per mile.¶~~

~~(H) In 2047, 103 grams per mile.¶~~

~~(I) In 2048, 99 grams per mile.¶~~

~~(J) In 2049, 94 grams per mile.¶~~

~~(K) In 2050, 90 grams per mile.~~adopted by the Oregon Transportation Commission. Metropolitan area greenhouse gas target modeling efforts must have modeled emission rates agreed to by the Oregon Department of Transportation and the department to ensure this compliance.¶

~~(ba) Projections of g~~Greenhouse gas emissions may use emission rates lower than the rates in subsection (a)targets may differ from the targets provided in OAR 660-044-00250 and 660-044-0025 if local or regional programs or actions can be demonstrated to result in changes to vehicle fleet, technologies, or fuels above and beyond the assumption in the Statewide Transportation Strategy, or agreed to by the Oregon Department of Transportation and the department. One example would be a program to add public charging stations that is estimated to result in use of hybrid or electric vehicles greater than the statewide assumption in the Statewide Transportation Strategy.¶

~~(34) Actions in the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission: Projections of greenhouse gas emissions may assume state actions specified in subsection (a),3) and may use the flexibility for local and regional actions described in subsection (ba).¶~~

(a) State Actions: Projections of greenhouse gas emissions may include reductions projected to result from state actions, programs, and associated interactions up to, but not exceeding, the levels identified in the Statewide Transportation Strategy.¶

(b) Local and Regional Actions: Projections of greenhouse gas emissions may include local or regional actions similar to actions in the Statewide Transportation Strategy if the local or regional governments have authority to and have adopted plans that would implement the actions.

Statutory/Other Authority: ORS 197.040; Ch. 865 OL 2009 (HB 2001) ¶ 37(6); Ch. 85 OL 2010 Special Session (SB 1059) ¶ 5

Statutes/Other Implemented: Ch. 865 OL 2009 (HBI 2001) ¶ 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) ¶ 5

AMEND: 660-044-0035

RULE SUMMARY: No substantive changes to existing rule. This rule provides for how the department reviews and evaluates the greenhouse gas targets in this division.

CHANGES TO RULE:

660-044-0035

Review and Evaluation of Greenhouse Gas Reduction Targets ¶

- (1) The commission shall by June 1, 2021, and at four year intervals thereafter, conduct a review of the greenhouse gas emissions reduction targets in OAR 660-044-0020 and 660-044-0025.¶
- (2) The review by the commission shall evaluate whether revisions to the targets established in this division are warranted considering the following factors:¶
 - (a) Results of land use and transportation scenario planning conducted within metropolitan planning areas to reduce greenhouse gas emissions from light vehicles;¶
 - (b) New or revised federal and state laws or programs established to reduce greenhouse gas emissions from light vehicles;¶
 - (c) State plans or policies establishing or allocating greenhouse gas emissions reduction goals to specific sectors or subsectors;¶
 - (d) Policies and recommendations in the Statewide Transportation Strategy adopted by the Oregon Transportation Commission;¶
 - (e) Additional studies or analysis conducted by the Oregon Department of Transportation, the Department of Environmental Quality, the Oregon Department of Energy or other agencies regarding greenhouse gas emissions from light vehicle travel, including but not limited to changes to vehicle technologies, fuels and the vehicle fleet;¶
 - (f) Changes in population growth rates, metropolitan planning area boundaries, land use or development patterns in metropolitan planning areas that affect light vehicle travel;¶
 - (g) Efforts by local governments in metropolitan areas to reduce greenhouse gas emissions from all sources;¶
 - (h) Input from affected local and regional governments and metropolitan planning organizations;¶
 - (i) Land use feasibility and economic studies regarding land use densities; and¶
 - (j) State funding and support for scenario planning and public engagement.¶
- (3) The department shall, in consultation and collaboration with affected local governments, metropolitan planning organizations and other state agencies, prepare a report addressing factors listed in section (2) of this rule to aid the commission in determining whether revisions to targets established in this division are warranted. Statutory/Other Authority: ORS 197.040; Ch. 865 OL 2009 (HB 2001) ¶ 37(6); Ch. 85 OL 2010 Special Session (SB 1059) ¶ 5 Statutes/Other Implemented: Ch. 865 OL 2009 (HBI 2001) ¶ 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) ¶ 5

AMEND: 660-044-0040

RULE SUMMARY: This rule makes changes to existing rule to support any future amendments needed to the preferred scenario in the Portland metropolitan area.

CHANGES TO RULE:

660-044-0040

Cooperative Selection of a Preferred Scenario; Initial Adoption ¶¶

(1) Within one year of adoption or amendment of a preferred scenario, Metro shall amend the regional framework plan and the regional growth concept to select and incorporate a preferred land use and transportation scenario that meets targets in OAR 660-044-0020 consistent with the requirements of this division.¶¶

(2) In preparing ~~and~~, selecting, or amending a preferred land use and transportation scenario Metro shall:¶¶

(a) Consult with affected local governments, representatives of underserved populations, the Port of Portland, TriMet, and the Oregon Department of Transportation;¶¶

(b) Consider adopted comprehensive plans and local aspirations for growth in developing and selecting a preferred land use and transportation scenario;¶¶

(c) Use assumptions about population, housing and employment growth consistent with the coordinated population and employment projections for the metropolitan area for the planning period;¶¶

(d) Use evaluation methods and analysis tools for estimating greenhouse gas emissions that are:¶¶

(A) Consistent with the provisions of this division;¶¶

(B) Reflect best available information and practices; and,¶¶

(C) Coordinated with the Oregon Department of Transportation.¶¶

(e) Make assumptions about state and federal policies and programs expected to be in effect over the planning period, including the Statewide Transportation Strategy, in coordination with the responsible state agencies;¶¶

(f) Evaluate a reference case scenario that reflects implementation of existing adopted comprehensive plans and transportation plans;¶¶

(g) Evaluate at least two alternative land use and transportation scenarios for meeting greenhouse gas reduction targets and identify types of amendments to comprehensive plans and land use regulations likely to be necessary to implement each alternative scenario;¶¶

(h) Develop and apply evaluation criteria that assess how alternative land use and transportation scenarios compare with the reference case in achieving important regional goals or outcomes;¶¶

(i) Evaluate if the preferred scenario relies on new investments or funding sources to achieve the target, the feasibility of the investments or funding sources including:¶¶

(A) A general estimate of the amount of additional funding needed;¶¶

(B) Identification of potential/likely funding mechanisms for key actions, including local or regional funding mechanisms; and,¶¶

(C) Coordination of estimates of potential state and federal funding sources with relevant state agencies (i.e. the Oregon Department of Transportation for transportation funding); and,¶¶

(D) Consider effects of alternative scenarios on development and travel patterns in the surrounding area (i.e. whether proposed policies will cause change in development or increased light vehicle travel between metropolitan area and surrounding communities compared to reference case).¶¶

(3) The preferred land use and transportation scenario shall include:¶¶

(a) A description of the land use and transportation growth concept providing for land use design types;¶¶

(b) A concept map showing the land use design types;¶¶

(c) Policies and strategies intended to achieve the target reductions in greenhouse gas emissions in OAR 660-044-0020;¶¶

(d) Planning assumptions upon which the preferred scenario relies including:¶¶

(A) Assumptions about state and federal policies and programs;¶¶

(B) Assumptions about vehicle technology, fleet or fuels, if those are different than those provided in OAR 660-044-0030;¶¶

(C) Assumptions or estimates of expected housing and employment growth by jurisdiction and land use design type; and¶¶

(D) Assumptions about proposed regional programs or actions other than those that set requirements for city and county comprehensive plans and land use regulations, such as investments and incentives;¶¶

(e) Performance measures and targets to monitor and guide implementation of the preferred scenario. Performance measures and targets shall be related to key elements, actions and expected outcomes from the preferred scenario. The performance measures shall include performance measures adopted to meet requirements of OAR 660-012-0035(5); and¶¶

(f) Recommendations for state or federal policies or actions to support the preferred scenario.¶

(4) When amending the ~~regional framework plan, Metro's~~ local Transportation Systems Plan, or comprehensive plan, local governments shall adopt findings demonstrating that implementation of the preferred land use and transportation scenario meets the requirements of this division and can reasonably be expected to achieve the greenhouse gas emission reductions as set forth in the target in OAR 660-044-0020. Metro's ~~The findings shall:~~¶
~~(a) Demonstrate Metro's process for cooperative selection of a preferred alternative meets the requirements in subsections (2)(a)-(i);~~¶
~~(b);~~¶

~~(a) Explain how the expected pattern of land use development in combination with land use and transportation policies, programs, actions set forth in the preferred scenario will result in levels of greenhouse gas emissions from light vehicle travel that achieve the target in OAR 660-044-0020;~~¶

~~(b) Explain how the framework plan amendments are consistent with and adequate to carry out t~~The preferred scenario, and are consistent with other provisions of the Regional Framework Plan~~and~~ advances equitable outcomes for underserved communities; and;¶

~~(d) Explain how t~~The preferred scenario is or will be made consistent with other applicable statewide planning goals or rules.¶

(5) Guidance on evaluation criteria and performance measures.¶

(a) The purpose of evaluation criteria referred to in subsection (2)(h) is to encourage Metro to select a preferred scenario that achieves greenhouse gas emissions reductions in a way that maximizes attainment of other community goals and benefits. This rule does not require the use of specific evaluation criteria. The following are examples of categories of evaluation criteria that Metro might use:¶

(A) Public health;¶

(B) Air quality;¶

(C) Household spending on energy or transportation;¶

(D) Implementation costs;¶

(E) Economic development;¶

(F) Access to parks and open space; and,¶

(G) Equity, specifically promoting equitable outcomes for underserved community members.¶

(b) The purpose of performance measures and targets referred to in subsection (3)(e) is to enable Metro and area local governments to monitor and assess whether key elements or actions that make up the preferred scenario are being implemented, and whether the preferred scenario is achieving the expected outcomes. This rule does not establish or require use of particular performance measures or targets. The following are examples of types of performance measures that Metro might establish:¶

(A) Transit service revenue hours;¶

(B) Mode share;¶

(C) People per acre by 2040 Growth Concept design type;¶

(D) Percent of workforce participating in employee commute options programs; and¶

(E) Percent of households and jobs within one-quarter mile of transit.

Statutory/Other Authority: ORS 197.040, 2009 OL Ch. 865 §37(8) (HB 2001)

Statutes/Other Implemented: 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0045

RULE SUMMARY: No substantive changes to existing rule. This rule provides guidance for how the preferred scenario is implemented in the Metro region.

CHANGES TO RULE:

660-044-0045

Adoption of Regional Plans to Implement the Preferred Scenario ¶

(1) Within one year of the commission's order approving Metro's amendments to the regional framework plan to select ~~and~~, incorporate, or amend a preferred land use and transportation scenario, Metro shall adopt regional functional plan amendments to implement the framework plan amendments. ¶

(2) Functional plan amendments shall establish requirements, deadlines and compliance procedures for amendments to local comprehensive plans, transportation system plans and land use regulations as necessary to implement the framework plan amendments. The functional plan amendments shall require affected cities and counties to adopt implementing amendments to comprehensive plans and land use regulations within two years of acknowledgement of Metro's functional plan amendments or by a later date specified in the adopted functional plan. ¶

(3) Functional plan amendments shall include requirements that local governments amend local comprehensive plans, transportation system plans and land use regulations to: ¶

(a) Use population, housing and employment allocations to specific areas and land use design types that are consistent with estimates in the framework plan including assumptions about densities, infill, and redevelopment; ¶

(b) Apply comprehensive plan designations and zoning districts that are consistent with land use design type, allowing uses and densities that are consistent with land use design type and limiting uses that would be incompatible with the design type specified in the preferred scenario; and, ¶

(c) Include other provisions needed to implement the amended framework plan. ¶

(4) As part of its adoption of functional plan amendments under this rule, Metro shall adopt findings demonstrating that actions required by the functional plan amendments are consistent with and adequate to implement the relevant portions of the preferred land use and transportation scenario set forth in the adopted framework plan amendments. The findings shall demonstrate that assumptions or allocations of housing and employment growth to specific areas are consistent with the estimates or assumptions in the framework plan amendments. In the event Metro's allocations or assumptions vary from those upon which the framework plan amendments are based, Metro shall demonstrate that the revised assumptions or allocations, in combination with other measures adopted as part of the functional plan will meet the GHG reduction target in OAR 660-044-0020. ¶

(5) Those portions of the preferred scenario in the framework plan that Metro chooses to implement by establishing requirements for city and county comprehensive plans and land use regulations shall be set forth in amendments to the functional plan. The amendments shall meet the following minimum planning standards: ¶

(a) For adoption of amendments to the regional framework plan, the Metro Council shall follow the process set forth in the Metro Charter; ¶

(b) For adoption of amendments to the functional plan, the Metro Council shall follow the process set forth in the Metro Charter for adoption of ordinances; ¶

(c) The Metro Council shall strive for flexibility when establishing new requirements for cities and counties, and shall consider offering optional compliance paths to cities and counties, such as adoption of a model ordinance developed by Metro; ¶

(d) Metro shall make new requirements for cities and counties included in the functional plan amendments adopted under this rule enforceable by Metro pursuant to ORS 268.390(6); ¶

(6) When it adopts an updated regional transportation system plan required by OAR chapter 660, division 12, Metro shall demonstrate that the updated plan is consistent with framework plan amendments adopting a preferred scenario as provided in OAR 660-044-0040(3).

Statutory/Other Authority: ORS 197.040, 2009 OL Ch. 865 §37(8) (HB 2001)

Statutes/Other Implemented: 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0050

RULE SUMMARY: This rule makes minor changes to an existing rule that extends commission review to amendment of the regional plans in the Portland metropolitan area.

CHANGES TO RULE:

660-044-0050

Commission Review of Regional Plans ¶¶

(1) The commission shall review Metro's framework plan amendments adopting or amending a preferred land use and transportation scenario and amendments to functional plans to implement the framework plan amendments in the manner provided for periodic review under ORS 197.628 to 197.650.¶

(2) The commission's review of framework plan amendments adopting a preferred land use and transportation scenario shall determine whether the preferred scenario can reasonably be expected to achieve greenhouse gas emission reductions as set forth in the targets in OAR 660-044-0020, other requirements of this division, and any applicable statewide planning goals.¶

(3) The commission's review of amendments to functional plans shall determine whether the adopted functional plans are consistent with and adequate to carry out relevant portions of the framework plan amendments.¶

(4) The commission may conduct review of Metro's framework plan amendments adopting a preferred scenario in conjunction with review of a UGB update or an update to the regional transportation system plan.

Statutory/Other Authority: ORS 197.040, ORS 197.274(2), 2009 OL Ch. 865 ¶37(8) (HB 2001)

Statutes/Other Implemented: ORS 197.274(2), 2009 OL Ch. 865 ¶37(8) (HB 2001)

AMEND: 660-044-0055

RULE SUMMARY: No substantive changes to existing rule. This rule that specifies a process for local governments in Metro to implement the preferred scenario.

CHANGES TO RULE:

660-044-0055

Adoption of Local Plans to Implement the Preferred Scenario ¶¶

(1) Local governments shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with and implement relevant portions of the preferred land use and transportation scenario as set forth in Metro's functional plans or amendments. "Consistent" for the purpose of this section means city and county comprehensive plans and implementing ordinances, on the whole, conforms with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.¶¶

(2) Beginning one year from Metro's adoption of an amendment of the preferred scenario, local governments in the Portland metropolitan area shall, in updating or adopting an amendment to a comprehensive plan or transportation system plan, ~~other than a comprehensive plan or transportation system plan update or amendment to implement the preferred scenario,~~ demonstrate that the proposed update or amendment is consistent with the preferred land use and transportation scenario.

Statutory/Other Authority: ORS 197.040, ORS 197.274(2), 2009 OL Ch. 865 ¶37(8) (HB 2001)

Statutes/Other Implemented: ORS 197.274(2), 2009 OL Ch. 865 ¶37(8) (HB 2001)

AMEND: 660-044-0060

RULE SUMMARY: This rule makes minor changes to the monitoring and reporting of progress in implementing the preferred scenario in the Portland metropolitan area.

CHANGES TO RULE:

660-044-0060

Monitoring ¶

(1) Metro shall ~~as part of reports required by ORS 197.301~~ prepare a report monitoring progress in implementing the preferred scenario including status of performance measures and performance targets adopted as part of the preferred scenario as part of regular updates to the Regional Transportation Plan and preparation of Urban Growth Reports. ¶

(2) Metro's report shall assess whether the region is making satisfactory progress in implementing the preferred scenario; identify reasons for lack of progress, and identify possible corrective actions to make satisfactory progress. Metro may update and revise the preferred scenario as necessary to ensure that performance targets are being met. ¶

(3) The commission shall review the report and shall either find Metro is making satisfactory progress or provide recommendations for corrective actions to be considered or implemented by Metro prior to or as part of the next update of the preferred scenario.

Statutory/Other Authority: ORS 197.040, ORS 197.301, ORS 197.274(2), 2009 OL Ch. 865 ¶ 37(8) (HB 2001)

Statutes/Other Implemented: ORS 197.301, 2009 OL Ch. 865 ¶ 37(8) (HB 2001)

ADOPT: 660-044-0100

RULE SUMMARY: This rule creates the process for scenario planning in cities and counties beyond the Portland metropolitan area.

CHANGES TO RULE:

660-044-0100

Scenario Planning Work Programs

As used in this division, a work plan must include:^{¶¶}

(1) A governance structure for regional cooperation: a proposed mechanism for regional cooperation. The governance structure may be an existing metropolitan planning organization, a new regional inter-governmental entity, an intergovernmental agreement for collaboration among local governments, or other mechanism. The governance structure must describe how the entity or entities will make decisions and complete tasks. The governance structure must, at a minimum, include cities and counties and describe how transit providers will be involved in the planning process.^{¶¶}

(2) A scope of work: A list of tasks to develop scenarios, analyze scenarios, select a preferred scenario, assemble a land use and transportation scenario plan, and amend local plans and ordinances consistent with the land use and transportation scenario plan.^{¶¶}

(3) A community engagement plan: A community engagement plan with a focus on outreach to and inclusion of underserved populations including community-based conversations.^{¶¶}

(4) A funding estimate: A general estimate of needs for state funding for regional entities to develop and select scenarios and for each city and county to adopt local amendments to implement the selected scenario. The funding estimate must include a schedule of requested amounts in current and future budget periods.^{¶¶}

(5) A schedule: The work plan must include the schedule for submitting the land use and transportation scenario plan and for adopting local amendments to implement the approved preferred land use and transportation scenario.^{¶¶}

(6) Cities and counties may submit a proposed work program to the department with alternative deadlines as those found in OAR 660-044-0015.^{¶¶}

(7) The department shall consult with the Oregon Department of Transportation to review the proposed work program. The director may approve the work program or refer the work program to the commission with recommended revisions.^{¶¶}

(8) If the director refers a proposed work program to the commission under section (7), the commission shall hold a hearing to review the proposed work program and the recommended revisions. The commission may approve the work program or remand the work program with required revisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-044-0110

RULE SUMMARY: This rule provides the required elements of a scenario plan for regions beyond the Portland metropolitan area and additional elements to implement the preferred scenario, to track progress, and to report on the planning process.

CHANGES TO RULE:

660-044-0110

Land Use and Transportation Scenario Plan Contents

As used in this rule, a land use and transportation scenario plan must include:

- (1) A horizon year at least 20 years in the future.
- (2) An assessment of the housing and transportation needs of underserved populations.
- (3) Policies and strategies intended to achieve the target reductions in greenhouse gas emissions in OAR 660-044-0025.
- (4) Planning assumptions used to develop the scenario including:
 - (a) Regionally significant projects reasonably likely to be funded through the horizon year;
 - (b) Regionally significant projects that would require additional funding;
 - (c) General estimates of the amount of additional funding required; and
 - (d) Potential sources of additional funding.
- (5) Projections of land uses at the horizon year including:
 - (a) Residential densities and locations;
 - (b) Employment densities and locations;
 - (c) Climate Friendly Areas as designated under OAR 660-012-0310 and 660-012-0315; and
 - (d) Total regional population consistent with forecasts under OAR 660-032-0020.
- (6) Analysis of local development regulations to identify any changes needed to enable development of the projected land uses, such as:
 - (a) Comparison of zoning maps with projected land use needed to meet the target;
 - (b) Parking requirements; and
 - (c) Electric vehicle charging requirements.
- (7) Projection of future greenhouse gas emissions at the horizon year using methods described in OAR 660-044-0030 using a preferred land use and transportation scenario to meet the targets in OAR 660-044-0025.
- (8) Assumptions used to project future greenhouse gas emissions including:
 - (a) Assumptions about state and federal policies and programs;
 - (b) Assumptions about vehicle technology, fleet or fuels, if those are different than those provided in OAR 660-044-0030; and
 - (c) Assumptions about proposed regional programs or actions such as investments and incentives not already included in the list of transportation projects and projections of future land uses.
- (9) Performance measures and methodologies that cities and counties will use to report on implementation of the preferred land use and transportation scenario, including:
 - (a) Regional performance measures to determine whether outcomes are progressing to achieve the projected reductions in greenhouse gas emissions. The regional performance measures must include actual performance for the data elements used to project greenhouse gas emissions as described in OAR 660-044-0030.
 - (b) Local implementation performance measures to determine whether cities and counties are taking the actions necessary to implement the preferred land use and transportation scenario.
 - (c) Equity performance measures to determine whether implementation of the preferred land use and transportation scenario is improving equitable outcomes for underserved communities.
- (10) The performance measures in section (9) must include:
 - (a) A set of performance measures including methods, details, and assumptions to calculate the value;
 - (b) Baseline current data, or historical data, for each performance measure;
 - (c) A reporting schedule repeating every four or five years through the horizon year;
 - (d) A target for each performance measure for each reporting point; and
 - (e) Best available demographic information for underserved populations.
- (11) Report on community-based conversations and other efforts to solicit input from underserved communities.
- (12) An assessment of benefits and burdens of the scenario on underserved community members compared to the population as a whole.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-044-0120

RULE SUMMARY: This rule describes the review process for scenario plans in cities and counties beyond the Portland metropolitan area.

CHANGES TO RULE:

660-044-0120

Commission Review of a Land Use and Transportation Scenario Plan

- (1) Cities and counties shall submit a land use and transportation scenario plan to the director.¶
- (2) Upon receipt of a land use and transportation scenario plan, the director shall determine whether the submittal is complete based on the applicable criteria in this division.¶
- (a) If there is any missing information, the director must inform the cities and counties with sufficient specificity to allow the cities and counties to provide missing information.¶
- (A) The cities and counties must supply additional information within 30 days of the director's notification. If the cities and counties do not supply additional information, the director shall review the original submission as provided in subsection (b).¶
- (B) If the director does not send a notice of missing information within 30 days of submittal, the submittal shall be deemed complete.¶
- (b) Upon completeness, the department shall:¶
 - (A) Post the complete land use and transportation scenario plan on the department's website; and¶
 - (B) Provide notice to persons described under ORS 197.615(3).¶
 - (C) The notice provided shall describe:¶
 - (i) How and where the land use and transportation scenario plan may be freely obtained; and¶
 - (ii) That objections to the land use and transportation scenario plan may be submitted to the department within 14 days of the notice.¶
 - (c) Review the submittal for compliance with this division and either:¶
 - (A) Issue an order approving the submittal, with responses to any objections submitted; or¶
 - (B) Refer the submittal to the commission for review and action under section (5).¶
 - (d) If the director does not issue an order approving the submittal or make a referral to the commission within 60 days of completeness, the submittal is deemed approved, and an order sent under section (3).¶
 - (3) The director shall send an approval order to the cities and counties, post on a public website using the Internet or a similar electronic method, and provide a copy of the order to the commission at its next regular meeting. The approval order must include information on the process to appeal the director's order as described in this rule.¶
 - (4) A person who has filed an objection may appeal a director's approval order to the commission. An appeal must be submitted within 30 days of the date of the commission meeting(s) at which the commission received the order. An appeal must clearly identify an alleged deficiency in the submittal based the requirements of this division.¶
 - (5) The commission shall hold a hearing on a submittal referred by the director under section (2) or appealed under section (4).¶
 - (a) The commission will consider the contents of the land use and transportation scenario plan, the director's staff report, testimony from cities or counties that submitted the plan, and testimony from any persons who filed objections to the plan.¶
 - (b) The commission may:¶
 - (A) Remand the submittal with specific directions for needed changes consistent with the requirements of this division; or¶
 - (B) Approve the submittal.¶
 - (6) The director shall issue an order of the commission's decision to the cities and counties and to all participants in the hearing.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

ADOPT: 660-044-0130

RULE SUMMARY: This rule describes the process for local governments outside of the Portland metropolitan area to individually implement the regional scenario plan they jointly develop.

CHANGES TO RULE:

660-044-0130

Local Amendments to Implement Approved Land Use and Transportation Scenario Plan

(1) Local governments shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with and implement relevant portions of the land use and transportation scenario plan approved by an order under OAR 660-044-0120. "Consistent" for the purpose of this rule means city and county comprehensive plans and implementing ordinances, on the whole, conform to the purposes of the performance standards in the approved land use and transportation scenario plan.

(2) Cities and counties with an approved land use and transportation scenario plan under OAR 660-044-0120 may only adopt amendments to a comprehensive plan, land use regulation, or transportation system plan that are consistent with the approved land use and transportation scenario plan.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

Exhibit D

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



App-221
ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

LCDD 3-2022
CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

08/17/2022 7:37 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Climate Friendly and Equitable Communities Rulemaking

EFFECTIVE DATE: 08/17/2022

AGENCY APPROVED DATE: 07/21/2022

CONTACT: Casaria Taylor
971-600-7699
casaria.taylor@dlcd.oregon.gov

635 Capitol Street
Ste. 150
Salem, OR 97031

Filed By:
Casaria Taylor
Rules Coordinator

RULES:

660-008-0010, 660-008-0050, 660-012-0000, 660-012-0005, 660-012-0011, 660-012-0012, 660-012-0015, 660-012-0016, 660-012-0035, 660-012-0045, 660-012-0060, 660-012-0100, 660-012-0105, 660-012-0110, 660-012-0115, 660-012-0120, 660-012-0125, 660-012-0130, 660-012-0135, 660-012-0140, 660-012-0145, 660-012-0150, 660-012-0155, 660-012-0160, 660-012-0170, 660-012-0180, 660-012-0190, 660-012-0200, 660-012-0210, 660-012-0215, 660-012-0300, 660-012-0310, 660-012-0315, 660-012-0320, 660-012-0325, 660-012-0330, 660-012-0340, 660-012-0350, 660-012-0360, 660-012-0400, 660-012-0405, 660-012-0410, 660-012-0415, 660-012-0420, 660-012-0425, 660-012-0430, 660-012-0435, 660-012-0440, 660-012-0445, 660-012-0450, 660-012-0500, 660-012-0505, 660-012-0510, 660-012-0520, 660-012-0600, 660-012-0605, 660-012-0610, 660-012-0620, 660-012-0630, 660-012-0700, 660-012-0705, 660-012-0710, 660-012-0720, 660-012-0800, 660-012-0805, 660-012-0810, 660-012-0820, 660-012-0830, 660-012-0900, 660-012-0905, 660-012-0910, 660-012-0915, 660-012-0920, 660-044-0000, 660-044-0005, 660-044-0015, 660-044-0020, 660-044-0025, 660-044-0030, 660-044-0035, 660-044-0040, 660-044-0045, 660-044-0050, 660-044-0055, 660-044-0060, 660-044-0100, 660-044-0110, 660-044-0120, 660-044-0130

AMEND: 660-008-0010

REPEAL: Temporary 660-008-0010 from LCDD 2-2022

RULE TITLE: Allocation of Buildable Land

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: The proposed rule amendments establish requirements for certain local governments to designate climate-friendly areas in conjunction with adoption of a Housing Capacity Analysis, as well as with some types of urban growth boundary amendments.

RULE TEXT:

(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.

(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):

(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5).

(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.

(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.

(3) Beginning June 30, 2027:

(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.

(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.

(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with ORS 197.296(5).

(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.

(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.296 - 197.314, 197.475 - 197.490, ORS 197.012, ORS 197.286

AMEND: 660-008-0050

REPEAL: Temporary 660-008-0050 from LCDD 2-2022

RULE TITLE: Housing Production Strategy Report Structure

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: The proposed rule amendment establishes requirements for certain local governments to include data and analysis related to housing development within climate-friendly areas or within Metro's Region 2040 centers in Housing Production Strategy Reports.

RULE TEXT:

As provided in ORS 197.290(2), a city with a population of more than 10,000 people must develop and adopt a Housing Production Strategy Report that includes a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296(3) or (10) for the most recent 20-year period described in the city's Housing Capacity Analysis. At a minimum, this Report must include the following components:

- (1) Contextualized Housing Need – A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.
 - (a) At a minimum, this must include a discussion of:
 - (A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;
 - (B) Measures already adopted by the city to promote the development of Needed Housing;
 - (C) Market conditions affecting the provision of Needed Housing;
 - (D) Existing and expected barriers to the development of Needed Housing;
 - (E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:
 - (i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;
 - (ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;
 - (iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and
 - (iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.
 - (F) Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112-0020(2);
 - (G) Housing tenure, including rental and owner households; and
 - (H) Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.
 - (b) A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:
 - (A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;
 - (B) Units that the city has permitted but which have not yet been produced;
 - (C) Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;
 - (D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and
 - (E) Other types and sources of data to refine housing need for those experiencing homelessness, including:
 - (i) Data collected by local Coordinated Care Organizations;
 - (ii) Data collected by community action agencies;
 - (iii) The capacity of existing emergency shelters;
 - (iv) Rental and homeowner vacancy rates;
 - (v) Change in gross or net property values or rent over time;

(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and

(vii) Other local houseless population datasets

(2) Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which the city engaged Consumers of Needed Housing and Producers of Needed Housing, especially with regard to state and federal protected classes. A city may conduct engagement for a Housing Production Strategy concurrent with other housing planning efforts within the city including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary must include the following elements:

(a) A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;

(b) A summary of feedback received from each stakeholder group;

(c) A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the city as provided in section (3); and

(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.

(3) Strategies to Meet Future Housing Need – A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in section (1). A Housing Production Strategy Report may identify strategies including, but not limited to, those listed in the Housing Production Strategy Guidance for Cities published by the Commission under Exhibit B. For each identified Housing Production Strategy, the Housing Production Strategy Report must include:

(a) A description of the Housing Production Strategy chosen;

(b) A timeline for adoption of the Housing Production Strategy;

(c) A timeline for implementation of the Housing Production Strategy; and

(d) An estimated magnitude of impact of the Housing Production Strategy, including:

(A) Housing need addressed by the identified Housing Production Strategy by tenure and income;

(B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;

(C) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy, including:

(i) Low-income communities;

(ii) Communities of color;

(iii) People with disabilities; and

(iv) Other state and federal protected classes; and

(D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.

(4) Achieving Fair and Equitable Housing Outcomes – A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:

(a) Location of Housing - How the city is striving to meet statewide greenhouse gas emission reduction goals, established under Executive Order No. 20-04, by creating compact, mixed-use neighborhoods available to people who are members of state and federal protected classes. Within Metro, cities subject to this rule shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within Region 2040 centers. Cities subject to this rule and OAR 660-012-0310(2) shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of

accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within climate-friendly areas. An accessible dwelling unit is a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes;

(b) Fair Housing - How the city is affirmatively furthering fair housing for all state and federal protected classes.

Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;

(c) Housing Choice – How the city is facilitating access to housing choice for communities of color, low- income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.

(d) Housing options for residents experiencing homelessness – How the city is advocating for and enabling the provision of housing options for residents experiencing homelessness and how the city is partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for residents experiencing homelessness;

(e) Affordable Homeownership and Affordable Rental Housing – How the city is supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation via homeownership, primarily for state and federal protected classes that have been disproportionately impacted by past housing policies; and

(f) Gentrification, Displacement, and Housing stability – How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.

(5) A Housing Production Strategy Report must include the following additional elements:

(a) A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;

(b) A description of actions that the city and other stakeholders must take to implement the proposed Housing Production Strategies;

(c) If the Housing Production Strategy Report is the first produced under this division, a description of how the city will measure strategy implementation and progress;

(d) If the Housing Production Strategy Report is not the first produced under this section, a summary of strategies that the city has previously adopted and implemented, and a reflection on the efficacy of each implemented strategy; and

(e) A copy of the city's most recently completed survey to meet the requirements of ORS 456.586.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303, ORS 197.012

AMEND: 660-012-0000

REPEAL: Temporary 660-012-0000 from LCDD 2-2022

RULE TITLE: Purpose

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to update the purpose statement for the division.

RULE TEXT:

(1) This division implements Statewide Planning Goal 12 (Transportation) to provide and encourage a safe, convenient, and economic transportation system. This division also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in close coordination with urban and rural development. The purpose of this division is to direct transportation planning in coordination with land use planning to:

- (a) Provide for safe transportation for all Oregonians;
- (b) Promote the development of transportation systems adequate to serve statewide, regional, and local transportation needs;
- (c) Provide a transportation system that serves the mobility and access needs of those who cannot drive and other underserved populations;
- (d) Provide for affordable, accessible and convenient transit, pedestrian, and bicycle access and circulation, with improved connectivity to destinations people want to reach, such as education facilities, workplaces, services, shopping, places of worship, parks, open spaces, and community centers;
- (e) Reduce pollution from transportation to meet statewide statutory and executive goals to reduce climate pollution;
- (f) Recognize and remedy impacts of past practices that have harmed underserved populations, such as redlining, displacement, exclusionary zoning, inaccessible design, and roadway and other public infrastructure siting;
- (g) Engage underserved populations in decision-making and prioritize investments serving those communities;
- (h) Facilitate the safe flow of freight, goods, and services within regions and throughout the state through a variety of modes including road, air, rail, and marine transportation;
- (i) Protect the functions of existing and planned transportation facilities, corridors, and sites;
- (j) Provide for the construction and implementation of transportation facilities, improvements, and services necessary to support acknowledged comprehensive plans;
- (k) Identify how transportation facilities are provided on rural lands consistent with the statewide planning goals;
- (l) Protect and restore safe passage for fish and wildlife, flood waters, and other natural system functions at roadway crossings of waterbodies and other native habitat corridors;
- (m) Require coordination among affected local governments and transportation service providers and consistency between state, regional, and local transportation plans; and
- (n) Encourage changes to comprehensive plans to be supported by adequate planned transportation facilities for all modes.

(2) In meeting the purposes described in section (1), coordinated land use and transportation plans should ensure the transportation system supports a pattern of travel and land use in urban areas that will avoid common air pollution, climate pollution, inequity, wasteful spending, and health and livability problems, through measures designed to increase transportation options and make more efficient use of the existing transportation system.

(3) The extent of planning required by this division and the outcome of individual transportation plans will vary depending on community size, needs and circumstances. Generally, larger and faster growing communities and regions will need to prepare more comprehensive and detailed plans, while smaller communities and rural areas will have more general plans. For all communities, the mix of planned transportation facilities and services should be sufficient to promote economic, sustainable, and environmentally sound mobility and accessibility for all Oregonians. Coordinating land use and transportation planning will also complement efforts to meet other state and local objectives, including containing urban development, reducing the cost of public services, protecting farm and forest land, reducing air, water,

and noise pollution, conserving energy, and reducing climate pollution.

(a) In all urban areas, coordinated land use and transportation plans are intended to provide safe transportation and to enhance, promote and facilitate safe and convenient pedestrian and bicycle travel by planning a well-connected network of streets, sidewalks, paths, and trails, and supporting improvements for non-driving travel modes.

(b) In urban areas with a population greater than 25,000 persons, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting the provision of transit service and more efficient performance of existing transportation facilities through transportation system management and demand management measures.

(c) Within metropolitan areas, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting changes in the transportation system and land use patterns. A key outcome of this effort is a reduction in dependence on single occupant automobile use, particularly during peak periods. To accomplish this outcome, this division promotes increased planning for non-driving modes and street connectivity and encourages land use patterns throughout urban areas that make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs. The result of applying these portions of the division will vary within metropolitan areas. Some parts of urban areas, such as downtowns, pedestrian districts, transit-oriented developments, climate-friendly areas, areas along priority transit corridors, and other mixed-use, pedestrian-friendly centers, will be highly convenient for a variety of modes, including walking, bicycling and transit, while others will be more auto-oriented while still providing safe and convenient access and circulation by other modes. In all instances, infrastructure shall be designed and constructed to deliver safety and convenience for all Oregonians.

(4) This division sets requirements for coordination among affected levels of government and transportation service providers for preparation, adoption, refinement, implementation, and amendment of transportation system plans. Transportation system plans adopted pursuant to this division fulfill the requirements for public facilities required under ORS 197.712(2)(e), Goal 11 and OAR chapter 660, division 11, as they relate to transportation facilities. The rules in this division are not intended to make local government determinations "land use decisions" under ORS 197.015(10). The rules recognize, however, that under existing statutory and case law, many determinations relating to the adoption and implementation of transportation plans will be land use decisions.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 195.012, ORS 197.040, ORS 197.712, ORS 197.717, ORS 197.732

AMEND: 660-012-0005

REPEAL: Temporary 660-012-0005 from LCDD 2-2022

RULE TITLE: Definitions

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to some definitions and addition of some new definitions.

RULE TEXT:

- (1) "Access Management" means measures regulating access to streets, roads and highways from public roads and private driveways. Measures may include but are not limited to restrictions on the siting of interchanges, restrictions on the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impacts of approach road traffic on the main facility.
- (2) "Accessible dwelling unit" means a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes.
- (3) "Accessible" means complying with the American with Disabilities Act.
- (4) "Accessway" means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.
- (5) "Affected Local Government" means a city, county, or metropolitan service district that is directly impacted by a proposed transportation facility or improvement.
- (6) "Approach Road" means a legally constructed, public or private connection that provides vehicular access either to or from or to and from a highway and an adjoining property.
- (7) "Area, net" means the total area of a development site exclusive of proposed or existing public rights of way, public parks, public open space, protected natural features, and any other areas permanently precluded from development due to development constraints, easements, or similar legal instruments.
- (8) "At or near a major transit stop": "At" means a parcel or ownership that is adjacent to or includes a major transit stop generally including portions of such parcels or ownerships that are within 200 feet of a transit stop. "Near" generally means a parcel or ownership that is within 300 feet of a major transit stop. The term "generally" is intended to allow local governments through their plans and ordinances to adopt more specific definitions of these terms considering local needs and circumstances consistent with the overall objective and requirement to provide convenient pedestrian access to transit.
- (9) "Bicycle boulevard" means bicycle facilities on streets with low motorized traffic volumes and speeds, designated and designed to give bicycle travel priority. Bicycle boulevards use signs, markings, traffic diverters, or other measures to discourage through trips by motor vehicles. A bicycle boulevard may also include traffic control features to create safe, convenient bicycle crossings of intersecting streets.
- (10) "Climate-friendly area" means an urban mixed-use area containing, or planned to contain, a mixture of higher-density housing, jobs, businesses, and services. These areas are served by, or planned for service by, high-quality pedestrian, bicycle, and transit infrastructure and services to provide frequent and convenient connections to key destinations within the city and region. These areas feature a well-designed and connected pedestrian environment. To maximize community benefits these areas typically do not contain or require large parking lots, and are provided with abundant tree canopy and vegetation to provide shade, cooling, and other amenities to visitors, residents, and employees. Climate-friendly areas will reduce the reliance on light duty motor vehicle trips for residents, workers, and visitors by providing more proximate destinations within climate-friendly areas, improved connectivity to key

destinations elsewhere in the community, and enhanced alternative transportation options.

(11) "Commercial parking lot" means a site without a primary use where vehicle parking spaces are rented or leased. It does not include shared parking.

(12) "Committed transportation facilities" means those proposed transportation facilities and improvements that are consistent with the acknowledged comprehensive plan and have approved funding for construction in a public facilities plan or the Six-Year Highway or Transportation Improvement Program.

(13) "Demand management" means actions that are designed to change travel behavior in order to improve performance of transportation facilities and to reduce need for additional road capacity. Methods may include, but are not limited to, the use of non-driving modes, ride-sharing and vanpool programs, trip-reduction ordinances, shifting to off-peak periods, and reduced or paid parking.

(14) "Equitable outcomes" means outcomes that burdens underserved populations less than and benefits underserved populations as much or more as the city or county population as a whole. Examples of equitable outcomes include:

(a) Increased stability of underserved populations, lowering the likelihood of displacement due to gentrification from public and private investments;

(b) More accessible, safe, affordable and equitable transportation options with better connectivity to destinations people want to reach;

(c) Adequate housing with access to employment, education, fresh food, goods, services, recreational and cultural opportunities, and social spaces;

(d) Increased safety for people in public spaces, transportation and community development;

(e) Equitable access to parks, nature, open spaces, and public spaces;

(f) Better and more racially equitable health outcomes across the lifespan, particularly health outcomes connected to transportation choices, air pollution, and food;

(g) Recognizing and remedying impacts of past practices such as redlining, displacement, exclusionary zoning, and roadway and other public infrastructure siting decisions that harmed underserved communities; and

(h) Fairly-distributed benefits to residents and local governments across cities and counties within metropolitan areas.

(15) "Freeway" means a limited-access highway with access points exclusively from interchanges with other streets and highways. Limited access may be provided for rural land uses in rural areas where no other access is available.

(16) "Horizon year" means the final year of the twenty-year planning period.

(17) "Influence area of an interchange" means the area 1,320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.

(18) "Local streets" means streets that are functionally classified as local streets to serve primarily local access to property and circulation within neighborhoods or specific areas. Local streets do not include streets functionally classified as collector or arterials.

(19) "Local Street Standards" include but are not limited to standards for right-of-way, pavement width, travel lanes, parking lanes, curb turning radius, and accessways.

(20) "Major" means, in general, those facilities or developments that, considering the size of the urban or rural area and the range of size, capacity or service level of similar facilities or developments in the area, are either larger than average, serve more than neighborhood needs or have significant land use or traffic impacts on more than the immediate neighborhood:

(a) "Major" as it modifies transit corridors, stops, transfer stations, and new transportation facilities means those facilities that are most important to the functioning of the system or that provide a high level, volume, or frequency of service;

(b) "Major" as it modifies industrial, institutional, and retail development means such developments that are larger than average, serve more than neighborhood needs, or that have traffic impacts on more than the immediate neighborhood;

(c) Application of the term "major" will vary from area to area depending upon the scale of transportation improvements, transit facilities, and development that occur in the area. A facility considered to be major in a smaller or less densely developed area may, because of the relative significance and impact of the facility or development, not be

considered a major facility in a larger or more densely developed area with larger or more intense development or facilities.

(21) "Major transit stop" means existing and planned transit stations, including light rail stations and other transit transfer stations, except for temporary facilities; other planned stops designated as major transit stops in a transportation system plan and existing stops that:

- (a) Have or are planned for an above average frequency of scheduled, fixed-route service when compared to region wide service. In urban areas of 1,000,000 or more population, major transit stops are generally located along routes that have or are planned for 15-minute or better service frequency throughout the day and on weekends; and
- (b) Are located in a transit-oriented development or within one-quarter mile of an area planned and zoned for:
 - (A) Medium or high-density residential development; or
 - (B) Intensive commercial or institutional uses within one-quarter mile of land uses in paragraph (A); or
 - (C) Uses likely to generate a relatively high level of transit ridership.

(22) "Metropolitan area" means the local governments that are responsible for adopting local or regional transportation system plans within a metropolitan planning organization (MPO) boundary. This includes cities, counties, and, in the Portland Metropolitan Area, Metro.

(23) "Metropolitan Planning Organization (MPO)" means an organization located within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state including such designations made subsequent to the adoption of this rule. The Longview-Kelso-Rainier and Walla Walla Valley MPOs are not considered MPOs for the purposes of this division.

(24) "Minor transportation improvements" include, but are not limited to, signalization, addition of turn lanes or merge/deceleration lanes on arterial or collector streets, provision of local streets, transportation system management measures, modification of existing interchange facilities within public right of way and design modifications located within an approved corridor. Minor transportation improvements may or may not be listed as planned projects in a TSP where the improvement is otherwise consistent with the TSP. Minor transportation improvements do not include new interchanges; new approach roads within the influence area of an interchange; new intersections on limited access roadways, highways, or expressways; new collector or arterial streets, road realignments or addition of travel lanes.

(25) "ODOT" means the Oregon Department of Transportation.

(26) "Parking benefit district" means a designated area where some of the revenues from parking fees or permits for public parking within the designated area are dedicated to public improvements in the area.

(27) "Parking mandates" means requirements to include a minimum number of off-street parking spaces with development or redevelopment, or a fee-in-lieu of providing parking for residential development.

(28) "Parking maximums" means limits on the number of off-street parking spaces that can be included in a development.

(29) "Parking spaces" means on and off-street spaces designated for automobile parking, other than parking spaces reserved for carpools, vanpools, or parking under the Americans with Disabilities Act.

(30) "Pedestrian district" means a comprehensive plan designation or implementing land use regulations, such as an overlay zone, that establish requirements to provide a safe and convenient pedestrian environment in an area planned for a mix of uses likely to support a relatively high level of pedestrian activity. Such areas include but are not limited to:

- (a) Lands planned for a mix of commercial or institutional uses near lands planned for medium to high-density housing; or
- (b) Areas with a concentration of employment and retail activity; and
- (c) That have, or could develop, or have planned a network of streets and accessways that provide convenient pedestrian circulation.

(31) "Pedestrian facility" means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian facilities include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges. On developed parcels, pedestrian facilities are generally hard surfaced. In parks and natural areas, pedestrian facilities may be soft-surfaced pathways. On undeveloped parcels and parcels

intended for redevelopment, pedestrian facilities may also include rights of way or easements for future pedestrian improvements.

(32) "Pedestrian plaza" means a small semi-enclosed area usually adjoining a sidewalk or a transit stop that provides a place for pedestrians to sit, stand or rest. They are usually paved with concrete, pavers, bricks, or similar material and include seating, pedestrian scale lighting, and similar pedestrian improvements. Low walls or planters and landscaping are usually provided to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. Plazas are generally located at a transit stop, building entrance, or an intersection and connect directly to adjacent sidewalks, walkways, transit stops, and buildings. A plaza including 150-250 square feet would be considered "small."

(33) "Pedestrian scale" means site and building design elements that are dimensionally less than those intended to accommodate automobile traffic, flow, and buffering. Examples include ornamental lighting of limited height; bricks, pavers, or other modules of paving with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the height of walls; and signage and signpost details that can only be perceived from a short distance.

(34) "People with disabilities" means people who have a record or history of physical, mental, intellectual, or sensory impairments that in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

(35) "Planning period" means the twenty-year period beginning with the date of adoption of a TSP to meet the requirements of this division.

(36) "Preliminary Design" means an engineering design that specifies in detail the location and alignment of a planned transportation facility or improvement.

(37) "Priority transit corridor" means a corridor that has a high existing or planned level of transit service relative to other transit service in the community, including service frequency and span of service. The corridor may be described as a series of stations when served by high-capacity transit services with widely spaced stations.

(38) "Reasonably direct" means either a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

(39) "Refinement Plan" means an amendment to the transportation system plan, that resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process.

(40) "Regional Transportation Plan" or "RTP" means the long-range transportation plan prepared and adopted by a metropolitan planning organization for a metropolitan area as provided for in federal law.

(41) "Roads" means streets, roads, and highways.

(42) "Rural community" means areas defined as resort communities and rural communities in accordance with OAR 660-022-0010(6) and (7). For the purposes of this division, the area need only meet the definitions contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with OAR 660-022-0020.

(43) "Separated or protected bicycle facilities" means bicycle facilities that are physically separated or protected from motor vehicle traffic by barriers that inhibit intrusion into the bicycle facility. Protection may include parked motor vehicles. Separated or protected bicycle facilities may be unidirectional or two-way. Separated or protected bicycle facilities are designed to address conflicting traffic at intersections and other vehicular accesses to the street or highway.

(44) "Shared parking" means parking spaces used to meet the parking mandates for two or more uses, structures, or parcels of land, to the extent that the owners or operators show the overall demand for parking spaces can be met by the shared parking.

(45) "Transit-Oriented Development (TOD)" means a mix of residential, retail, and office uses and a supporting network of roads, bicycle, and pedestrian ways focused on a major transit stop designed to support a high level of transit use. The

key features of transit-oriented development include:

- (a) A mixed-use center at the transit stop, oriented principally to transit riders and pedestrian and bicycle travel from the surrounding area;
 - (b) High density of residential development proximate to the transit stop sufficient to support transit operation and neighborhood commercial uses within the TOD;
 - (c) A network of roads, and bicycle and pedestrian paths to support high levels of pedestrian access within the TOD and high levels of transit use.
- (46) "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage, and water systems.
- (47) "Transportation System Management Measures" means techniques for increasing the efficiency, safety, capacity, or level of service of a transportation facility without increasing its size. Examples include, but are not limited to, traffic signal improvements, traffic control devices including installing medians and parking removal, channelization, access management, ramp metering, and restriping of high occupancy vehicle (HOV) lanes.
- (48) "Transportation Needs" means estimates of the movement of people and goods consistent with acknowledged comprehensive plan and the requirements of this division. Needs are typically based on projections of future travel demand resulting from a continuation of current trends as modified by policy objectives, including those expressed in Goal 12 and this division, and attaining the state's goals for greenhouse gas emissions reduction, especially those for avoiding principal reliance on any one mode of transportation.
- (49) "Transportation Needs, Local" means needs for movement of people and goods within communities and portions of counties and the need to provide access to local destinations.
- (50) "Transportation Needs, Regional" means needs for movement of people and goods between and through communities and accessibility to regional destinations within a metropolitan area, county, or associated group of counties.
- (51) "Transportation Needs, State" means needs for movement of people and goods between and through regions of the state and between the state and other states.
- (52) "Transportation Options Provider" means an entity providing services that work to change travel behavior in order to increase transportation system efficiency.
- (53) "Transportation Project Development" means implementing the transportation system plan (TSP) by determining the precise location, alignment, and preliminary design of improvements included in the TSP based on site-specific engineering and environmental studies.
- (54) "Transportation Service" means a service for moving people and goods, such as intercity bus service and passenger rail service.
- (55) "Transportation System Plan (TSP)" means a plan for one or more transportation facilities that are planned, developed, operated, and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas.
- (56) "Urban Area" means lands within an urban growth boundary, two or more contiguous urban growth boundaries, and urban unincorporated communities as defined by OAR 660-022-0010(9). For the purposes of this division, the area need only meet the definition contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with OAR 660-022-0020.
- (57) "Unbundled parking" means a requirement that parking spaces for each unit in a development be rented, leased, or sold separately from the unit itself. The parking space(s) must be rented, leased, or sold at market rates for comparable local off-street parking. The renter, lessor, or buyer of the unit must be allowed to opt out of renting, leasing, or buying the parking space.
- (58) "Urban Fringe" means:
- (a) Areas outside the urban growth boundary that are within five miles of the urban growth boundary of an MPO area; and
 - (b) Areas outside the urban growth boundary within two miles of the urban growth boundary of an urban area

containing a population greater than 25,000.

(59) "Vehicle Miles Traveled (VMT)" means all jurisdiction household-based light vehicle travel regardless of where the travel occurs.

(60) "Walkway" means a hard surfaced area intended and suitable for use by pedestrians, including sidewalks and surfaced portions of accessways.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.712, ORS 197.717, ORS 197.732, ORS 197.012

ADOPT: 660-012-0011

REPEAL: Temporary 660-012-0011 from LCDD 2-2022

RULE TITLE: Applicable Rules

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for local governments in metropolitan areas to use certain rules in the division.

RULE TEXT:

(1) OAR 660-012-0000, OAR 660-012-0005, OAR 660-012-0010, OAR 660-12-0011, OAR 660-12-0050, OAR 660-012-0060, OAR 660-012-0065, and OAR 660-012-0070 apply statewide, where this division is applicable.

(2) OAR 660-012-0012 and OAR 660-012-0100 through OAR 660-012-0920 apply to the following local governments:

(a) Cities within metropolitan areas;

(b) Portions of counties within urban growth boundaries of cities in metropolitan areas; and

(c) Metro and cities and portions of counties within the Metro urban growth boundary.

(3) OAR 660-012-0010 through OAR 660-012-0045 and OAR 660-012-0055 apply to all local governments other than those listed in section (2) of this rule, where this division is applicable.

(4) Cities or counties that otherwise would be required to use rules as provided in section (3), may choose to instead adopt a transportation system plan meeting the rules that apply to jurisdictions as provided in section (2). Upon acknowledgement of such a transportation system plan, the city shall continue to be subject to these rules in all respects.

(5) All cities are either subject to the rules in section (2) or section (3), but not both.

(6) Counties may have different applicable rules in different parts of the county.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0012

REPEAL: Temporary 660-012-0012 from LCDD 2-2022

RULE TITLE: Effective Dates and Transition

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for effective dates and deadlines of some provisions in the division.

RULE TEXT:

(1) The rules in this division adopted on July 21, 2022, and amendments to rules in this division adopted on that date, are effective August 17, 2022, except as provided in this rule.

(2) A city or county subject to the requirements as provided in OAR 660-012-0100 may make interim updates to the local transportation system plan using requirements as provided in OAR 660-012-0015 if the city or county:

(a) Has submitted notice of the proposed change to the comprehensive plan to the department as provided in OAR 660-018-0020 no later than December 31, 2022; or

(b) The interim update is not a major transportation system plan update as provided in OAR 660-012-0105, and the city or county has submitted notice of the proposed change to the comprehensive plan to the department as provided in OAR 660-018-0020 no later than June 30, 2027. Interim updates must comply with applicable requirements in this division within the scope of the transportation system plan amendment but need not bring the entire transportation system plan in compliance with all applicable regulations.

(3) Cities, counties, or Metro may choose to propose alternative dates in lieu of the effective dates or deadlines in section (4) of this rule.

(a) A submitted proposal for alternative dates shall include:

(A) A description of any work already underway to begin complying with the new or amended requirements of this division;

(B) Proposed dates for accomplishing requirements in lieu of effective dates or deadlines provided in this rule; and

(C) A schedule for updating local transportation system plans to comply with new or amended requirements of this division.

(b) Proposed alternative dates must demonstrate consistent progress toward meeting the updated requirements of this division. Proposed alternative dates must include at least some work implemented by December 31, 2023. Proposed alternative dates must include completion of all elements included in the alternative dates, except for a major update to the transportation system plan, by June 30, 2027.

(c) Proposed alternative dates should be designed to sequence work in a logical progression, considering acknowledged plans, other work, and the work of other jurisdictions within the metropolitan area. Cities and counties in a metropolitan area may submit joint proposed alternative dates for a metropolitan area.

(d) Proposed alternative dates may not be submitted to the department after January 31, 2023.

(e) Local governments in regions required to submit a work program as provided in OAR 660-044-0015 may submit a single combined work program that proposes alternative dates as provided in this rule and meets the requirements as provided in OAR 660-044-0100. Notwithstanding subsection (d), the combined work program must be submitted by the date provided in OAR 660-044-0015.

(f) The director shall review the proposed alternative dates to determine whether the proposed alternative dates meet the following criteria:

(A) Ensures urgent action;

(B) Coordinates actions across jurisdictions within the metropolitan area;

(C) Coordinates with work required as provided in OAR 660-044-0100;

(D) Sequences elements into a logical progression; and

(E) Considers availability of funding and other resources to complete the work.

(g) Upon the director finding the proposed alternative dates meet the criteria in (f), the alternative dates shall be used.

(h) The director may modify alternative dates at any time as necessary to achieve the purposes of this division.

- (4) The dates in this section apply unless alternative dates are approved by the director as provided in section (3).
- (a) Cities outside the Portland Metropolitan Area with a population over 5,000 in the urban area, and counties outside the Portland Metropolitan Area with an unincorporated population over 5,000 in the urban area, must adopt a major transportation system plan update as provided in OAR 660-012-0105 by December 31, 2029.
- (b) The provisions of OAR 660-012-0215 requiring the adoption of multiple transportation performance standards take effect on June 30, 2025.
- (c) A city or county that is subject to the requirements of OAR 660-012-0310 shall adopt land use requirements for climate-friendly areas and a climate-friendly comprehensive plan element as provided in OAR 660-012-0315 by December 31, 2024.
- (d) Metro shall amend the urban growth management functional plan in conjunction with its next growth management analysis under ORS 197.296 and no later than December 31, 2024, to require local government adoption of Region 2040 centers and land use regulations as described in the acknowledged urban growth management functional plan. Within the Metro urban growth boundary, a county with planning jurisdiction in unincorporated areas provided with urban water, sanitary sewer, stormwater, and transportation services, or a city shall comply with the adopted requirements of the urban growth management functional plan by December 31, 2025.
- (e) Cities and counties shall adopt land use regulations to meet the requirements of OAR 660-012-0330 no later than the date of adoption of a major transportation system plan update as provided in OAR 660-012-0105.
- (f) Cities and counties shall adopt comprehensive plan amendments and land use regulations meeting requirements provided in OAR 660-012-0400, OAR 660-012-0405, and OAR 660-012-0415 through OAR 660-012-0450 no later than June 30, 2023, except as provided below. If a city or county has not done so, it may not apply parking mandates after that date.
- (A) Cities and counties that pass population thresholds in OAR 660-012-0400, OAR 660-012-0415, or OAR 660-012-0450 must adopt comprehensive plan amendments and land use regulations meeting requirements within 12 months of passing those population thresholds.
- (B) If cities and counties adopt an approach in OAR 660-012-0445, policies must take effect no later than June 30, 2023.
- (C) Cities and counties adopting an approach in OAR 660-012-0435 shall do so concurrently with adoption of any climate-friendly area under OAR 660-012-0315.
- (g) Cities choosing to report on the share of on-street parking spaces that are priced as provided in OAR 660-012-0450(1)(b) must:
- (A) Demonstrate at least five percent of on-street parking spaces are priced by September 30, 2023; and
- (B) Demonstrate at least 10 percent of on-street parking spaces are priced by September 30, 2025.
- (5) The following dates may not be adjusted through proposed alternative dates as provided in section (3):
- (a) The provisions of OAR 660-012-0210 take effect June 30, 2024.
- (b) A city or county that is subject to the requirements of OAR 660-012-0310 shall submit a study of climate-friendly areas as provided in OAR 660-012-0315(4) and (5) by December 31, 2023.
- (c) The provisions of OAR 660-012-0310(4)(a) and (b) take effect June 30, 2023.
- (d) Cities shall implement the requirements for electric vehicle charging as provided in OAR 660-012-0410 no later than March 31, 2023.
- (e) Cities and counties shall implement the requirements of OAR 660-012-0430 and 660-012-0440 when reviewing development applications submitted after December 31, 2022.
- (6) Cities and counties with voter-approved bond-funded projects where the election occurred before January 1, 2022 may use approved bond funding as a factor when prioritizing projects in an unconstrained project list as provided in OAR 660-012-0170(4).
- (7) The first reporting year for the reporting requirements provided in OAR 660-012-0900 is 2023, with reports due no later than May 31, 2024.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.712, ORS 197.296, ORS 455.417

AMEND: 660-012-0015

REPEAL: Temporary 660-012-0015 from LCDD 2-2022

RULE TITLE: Preparation and Coordination of Transportation System Plans

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

RULE TEXT:

(1) ODOT shall prepare, adopt, and amend a state TSP in accordance with ORS 184.618, its program for state agency coordination certified under ORS 197.180, and OAR 660-012-0030, 660-012-0035, 660-012-0050, 660-012-0065 and 660-012-0070. The state TSP shall identify a system of transportation facilities and services adequate to meet identified state transportation needs:

(a) The state TSP shall include the state transportation policy plan, modal systems plans, and transportation facility plans as set forth in OAR chapter 731, division 15;

(b) State transportation project plans shall be compatible with acknowledged comprehensive plans as provided for in OAR chapter 731, division 15. Disagreements between ODOT and affected local governments shall be resolved in the manner established in that division.

(2) Counties shall prepare and amend regional TSPs in compliance with this division. Counties shall prepare regional TSPs for areas and facilities:

(a) Regional TSPs shall establish a system of transportation facilities and services adequate to meet identified regional transportation needs and shall be consistent with adopted elements of the state TSP;

(b) Where elements of the state TSP have not been adopted, the county shall coordinate the preparation of the regional TSP with ODOT to ensure that state transportation needs are accommodated;

(c) Regional TSPs prepared by counties shall be adopted by the county.

(3) Cities and counties shall prepare, adopt, and amend local TSPs for lands within their planning jurisdiction in compliance with this division:

(a) Local TSPs shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with regional TSPs and adopted elements of the state TSP;

(b) Where the regional TSP or elements of the state TSP have not been adopted, the city or county shall coordinate the preparation of the local TSP with the regional transportation planning body and ODOT to ensure that regional and state transportation needs are accommodated.

(4) Cities and counties shall adopt regional and local TSPs required by this division as part of their comprehensive plans. Transportation financing programs required by OAR 660-012-0040 may be adopted as a supporting document to the comprehensive plan.

(5) The preparation of TSPs shall be coordinated with affected state and federal agencies, local governments, special districts, and private providers of transportation services.

(6) Mass transit, transportation, airport, and port districts shall participate in the development of TSPs for those transportation facilities and services they provide. These districts shall prepare and adopt plans for transportation facilities and services they provide. Such plans shall be consistent with and adequate to carry out relevant portions of applicable regional and local TSPs. Cooperative agreements executed under ORS 195.020(2) shall include the requirement that mass transit, transportation, airport, and port districts adopt a plan consistent with the requirements of this section.

(7) Where conflicts are identified between proposed regional TSPs and acknowledged comprehensive plans, representatives of affected local governments shall meet to discuss means to resolve the conflicts. These may include:

(a) Changing the draft TSP to eliminate the conflicts; or

(b) Amending acknowledged comprehensive plan provision to eliminate the conflicts.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 195.025, ORS 197.180, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717

REPEAL: 660-012-0016

RULE TITLE: Coordination with Federally-Required Regional Transportation Plans in Metropolitan Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Rule repealed.

RULE TEXT:

(1) In metropolitan areas, local governments shall prepare, adopt, amend and update transportation system plans required by this division in coordination with regional transportation plans (RTPs) prepared by MPOs required by federal law. Insofar as possible, regional transportation system plans for metropolitan areas shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division. Nothing in this rule is intended to make adoption or amendment of a regional transportation plan by a metropolitan planning organization a land use decision under Oregon law.

(2) When an MPO adopts or amends a regional transportation plan that relates to compliance with this division, the affected local governments shall review the adopted plan or amendment and either:

(a) Make a finding that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional and local transportation system plan and comprehensive plan and compliant with applicable provisions of this division; or

(b) Adopt amendments to the relevant regional or local transportation system plan that make the regional transportation plan and the applicable transportation system plans consistent with one another and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the RTP amendment or update and shall be adopted no later than one year from the adoption of the RTP amendment or update or according to a work plan approved by the commission. A plan amendment is "initiated" for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR chapter 660, division 18.

(c) In the Portland Metropolitan area, compliance with this section shall be accomplished by Metro through adoption of required findings or an amendment to the regional transportation system plan.

(3) Adoption or amendment of a regional transportation plan relates to compliance with this division for purposes of section (2) if it does one or more of the following:

(a) Changes plan policies;

(b) Adds or deletes a project from the list of planned transportation facilities, services or improvements or from the financially-constrained project list required by federal law;

(c) Modifies the general location of a planned transportation facility or improvement;

(d) Changes the functional classification of a transportation facility; or

(e) Changes the planning period or adopts or modifies the population or employment forecast or allocation upon which the plan is based.

(4) The following amendments to a regional transportation plan do not relate to compliance with this division for purposes of section (2):

(a) Adoption of an air quality conformity determination;

(b) Changes to a federal revenue projection;

(c) Changes to estimated cost of a planned transportation project; or

(d) Deletion of a project from the list of planned projects where the project has been constructed or completed.

(5) Adoption or amendment of a regional transportation plan that extends the planning period beyond that specified in the applicable acknowledged comprehensive plan or regional transportation system plan is consistent with the requirements of this rule where the following conditions are met:

(a) The future year population forecast is consistent with those issued or adopted under ORS 195.033 or 195.036;

(b) Land needed to accommodate future urban density population and employment and other urban uses is identified in

a manner consistent with Goal 14 and relevant rules;

(c) Urban density population and employment are allocated to designated centers and other identified areas to provide for implementation of the metropolitan area's integrated land use and transportation plan or strategy; and

(d) Urban density population and employment or other urban uses are allocated to areas outside of an acknowledged urban growth boundary only where:

(A) The allocation is done in conjunction with consideration by local governments of possible urban growth boundary amendments consistent with Goal 14 and relevant rules, and

(B) The RTP clearly identifies the proposed UGB amendments and any related projects as illustrative and subject to further review and approval by the affected local governments.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 195.012, 197.040, 197.712, 197.717, 197.732

AMEND: 660-012-0035

REPEAL: Temporary 660-012-0035 from LCDD 2-2022

RULE TITLE: Evaluation and Selection of Transportation System Alternatives

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

RULE TEXT:

(1) The TSP shall be based upon evaluation of potential impacts of system alternatives that can reasonably be expected to meet the identified transportation needs in a safe manner and at a reasonable cost with available technology. The following shall be evaluated as components of system alternatives:

- (a) Improvements to existing facilities or services;
- (b) New facilities and services, including different modes or combinations of modes that could reasonably meet identified transportation needs;
- (c) Transportation system management measures;
- (d) Demand management measures; and
- (e) A no-build system alternative required by the National Environmental Policy Act of 1969 or other laws.

(2) The following standards shall be used to evaluate and select alternatives:

- (a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;
- (b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;
- (c) The transportation system shall minimize adverse economic, social, environmental, and energy consequences;
- (d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation; and
- (e) The transportation system shall avoid principal reliance on any one mode of transportation by increasing transportation choices to reduce principal reliance on the automobile.

(3) Where existing and committed transportation facilities and services have adequate capacity to support the land uses in the acknowledged comprehensive plan, the local government shall not be required to evaluate alternatives as provided in this rule.

(4) Transportation uses or improvements listed in OAR 660-012-0065(3)(d) to (g) and (o) and located in an urban fringe may be included in a TSP only if the project identified in the transportation system plan as described in section (6) of this rule, will not significantly reduce peak hour travel time for the route as determined pursuant to section (5) of this rule, or the jurisdiction determines that the following alternatives cannot reasonably satisfy the purpose of the improvement project:

- (a) Improvements to transportation facilities and services within the urban growth boundary;
- (b) Transportation system management measures that do not significantly increase capacity; or
- (c) Transportation demand management measures. The jurisdiction needs only to consider alternatives that are safe and effective, consistent with applicable standards and that can be implemented at a reasonable cost using available technology.

(5) A project significantly reduces peak hour travel time when, based on recent data, the time to travel the route is reduced more than 15 percent during weekday peak hour conditions over the length of the route located within the urban fringe. For purposes of measuring travel time, a route shall be identified by the predominant traffic flows in the project area.

(6) A "transportation improvement project" described in section (4) of this rule:

- (a) Is intended to solve all of the reasonably foreseeable transportation problems within a general geographic location, within the planning period; and

(b) Has utility as an independent transportation project.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.245

STATUTES/OTHER IMPLEMENTED: ORS 195.025, ORS 197.230, ORS 197.245, ORS 197.712, ORS 197.717, ORS 197.012

AMEND: 660-012-0045

REPEAL: Temporary 660-012-0045 from LCDD 2-2022

RULE TITLE: Implementation of the Transportation System Plan

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to provisions applying to local governments in metropolitan areas.

RULE TEXT:

(1) Each local government shall amend its land use regulations to implement the TSP.

(a) The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the TSP and, under ordinary circumstances do not have a significant impact on land use:

(A) Operation, maintenance, and repair of existing transportation facilities identified in the TSP, such as road, bicycle, pedestrian, port, airport, and rail facilities, and major regional pipelines and terminals;

(B) Dedication of right-of-way, authorization of construction, and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;

(C) Uses permitted outright under ORS 215.213(1)(j)–(m) and 215.283(1)(h)–(k), consistent with the provisions of OAR 660-012-0065; and

(D) Changes in the frequency of transit, rail, and airport services.

(b) To the extent, if any, that a transportation facility, service or improvement concerns the application of a comprehensive plan provision or land use regulation, it may be allowed without further land use review if it is permitted outright or if it is subject to standards that do not require interpretation or the exercise of factual, policy, or legal judgment;

(c) In the event that a transportation facility, service, or improvement is determined to have a significant impact on land use or to concern the application of a comprehensive plan or land use regulation and to be subject to standards that require interpretation or the exercise of factual, policy, or legal judgment, the local government shall provide a review and approval process that is consistent with OAR 660-012-0050. To facilitate implementation of the TSP, each local government shall amend its land use regulations to provide for consolidated review of land use decisions required to permit a transportation project.

(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors, and sites for their identified functions. Such regulations shall include:

(a) Access control measures, for example, driveway and public road spacing, median control, and signal spacing standards, that are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities;

(b) Standards to protect future operation of roads, transitways, and major transit corridors;

(c) Measures to protect public use airports by controlling land uses within airport noise corridors and imaginary surfaces, and by limiting physical hazards to air navigation;

(d) A process for coordinated review of future land use decisions affecting transportation facilities, corridors, or sites;

(e) A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors, or sites;

(f) Regulations to provide notice to public agencies providing transportation facilities and services, MPOs, and ODOT of:

(A) Land use applications that require public hearings;

(B) Subdivision and partition applications;

(C) Other applications that affect private access to roads; and

(D) Other applications within airport noise corridors and imaginary surfaces that affect airport operations; and

(g) Regulations ensuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities, and performance standards of facilities identified in the TSP.

(3) Local governments shall adopt land use or subdivision regulations for urban areas and rural communities as set forth

below. The purposes of this section are to provide for safe and convenient pedestrian, bicycle and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and that avoids wherever possible levels of automobile traffic that might interfere with or discourage pedestrian or bicycle travel.

(a) Bicycle parking facilities as part of new multi-family residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots;

(b) On-site facilities shall be provided that accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Single-family residential developments shall generally include streets and accessways. Pedestrian circulation through parking lots should generally be provided in the form of accessways.

(A) "Neighborhood activity centers" include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers;

(B) Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along arterials, collectors, and most local streets in urban areas, except that sidewalks are not required along controlled access roadways, such as freeways;

(C) Cul-de-sacs and other dead-end streets may be used as part of a development plan, consistent with the purposes set forth in this section;

(D) Local governments shall establish their own standards or criteria for providing streets and accessways consistent with the purposes of this section. Such measures may include but are not limited to: standards for spacing of streets or accessways; and standards for excessive out-of-direction travel;

(E) Streets and accessways need not be required where one or more of the following conditions exist:

(i) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;

(ii) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or

(iii) Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

(c) Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along arterials and major collectors;

(d) For purposes of subsection (b) "safe and convenient" means bicycle and pedestrian routes, facilities and improvements that:

(A) Are reasonably free from hazards, particularly types or levels of automobile traffic that would interfere with or discourage pedestrian or cycle travel for short trips;

(B) Provide an accessible and reasonably direct route of travel between destinations such as between a transit stop and a store; and

(C) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the most common trip length of pedestrians is generally under one-half mile.

(e) Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.

(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in subsections (a)–(g) below:

(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts

and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate;

(b) New retail, office, and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in paragraphs (A) and (B) below.

(A) Accessible walkways shall be provided connecting building entrances and streets adjoining the site;

(B) Accessible pedestrian facilities connecting to adjoining properties shall be provided except where such a connection is impracticable as provided for in paragraph (3)(b)(E). Pedestrian facilities shall connect the on-site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;

(C) In addition to paragraphs (A) and (B) above, on sites at major transit stops provide the following:

(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;

(ii) An accessible and reasonably direct pedestrian facility between the transit stop and building entrances on the site;

(iii) A transit passenger landing pad accessible to people with disabilities;

(iv) An easement or dedication for a passenger shelter if requested by the transit provider; and

(v) Lighting at the transit stop.

(c) Local governments may implement paragraphs (b)(A) and (B) through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of paragraph (b)(C);

(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;

(e) Existing development shall be allowed to redevelop a portion of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate;

(f) Road systems for new development shall be provided that can be adequately served by transit, including provision of pedestrian access to existing and identified future transit routes. This shall include, where appropriate, separate accessways to minimize travel distances;

(g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit.

(5) In developing a bicycle and pedestrian circulation plan as required by OAR 660-012-0020(2)(d), local governments shall identify improvements to facilitate bicycle and pedestrian trips to meet local travel needs in developed areas.

Appropriate improvements should provide for more direct, convenient, accessible, and safer bicycle or pedestrian travel within and between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops). Specific measures include, for example, constructing walkways between cul-de-sacs and adjacent roads, providing walkways between buildings, and providing direct access between adjacent uses.

(6) Local governments shall establish standards for local streets and accessways that minimize pavement width and total right-of-way consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Notwithstanding section (1) or (3) of this rule, local street standards adopted to meet this requirement need not be adopted as land use regulations.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012

AMEND: 660-012-0060

REPEAL: Temporary 660-012-0060 from LCDD 2-2022

RULE TITLE: Plan and Land Use Regulation Amendments

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to clearly allow use of a range of transportation system performance standards.

RULE TEXT:

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the performance standards of the facility measured or projected at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in subsections (a) through (e) below, unless the amendment meets the balancing test in subsection (e) or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

(a) Adopting measures that demonstrate allowed land uses are consistent with the performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses consistent with the requirements of this division. Such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Amending the TSP to modify the performance standards of the transportation facility.

(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:

- (A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;
- (B) The providers of facilities being improved at other locations provide written statements of approval; and
- (C) The local jurisdictions where facilities are being improved provide written statements of approval.
- (3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without ensuring that the allowed land uses are consistent with the performance standards of the facility where:
- (a) In the absence of the amendment, planned transportation facilities, improvements, and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the performance standard for that facility by the end of the planning period identified in the adopted TSP;
- (b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
- (c) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and
- (d) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.
- (4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.
- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.
- (b) Outside of interstate interchange areas, the following are considered planned facilities, improvements, and services:
- (A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.
- (B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements, or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.
- (C) Transportation facilities, improvements, or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.
- (D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.
- (E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement, or service is reasonably likely to be provided by the end of the planning period.
- (c) Within interstate interchange areas, the improvements included in paragraphs (b)(A)–(C) are considered planned

facilities, improvements, and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205, and 405; and

(C) Interstate interchange area means:

(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement, or service is a planned transportation facility, improvement, or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements, and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional, or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

(6) If a local government is determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in sections (1) and (2) using a performance standard based on projected levels of motor vehicle traffic, then the local government shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in subsections (a)–(d);

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10 percent fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10 percent reduction allowed for by this subsection shall be available only if uses that rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10 percent reduction required in subsection (a);

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in subsection (a) or (b), it shall ensure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in OAR 660-012-0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with OAR 660-012-0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that ensure compliance with these rule requirements at the time of development approval; and

(d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly,

mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments that accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to subsection (a). The commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances that provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

(7) Amendments to acknowledged comprehensive plans and land use regulations that meet all of the criteria listed in subsections (a)–(c) shall include an amendment to the comprehensive plan, transportation system plan, the adoption of a local street plan, access management plan, future street plan, or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in OAR 660-012-0020(2)(b) and 660-012-0045(3):

(a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;

(b) The local government has not adopted a TSP or local street plan that complies with OAR 660-012-0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 1, Section 3.08.110 of the Regional Transportation Functional Plan; and

(c) The proposed amendment would significantly affect a transportation facility as provided in section (1).

(8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

(a) Any one of the following:

(A) An existing central business district or downtown;

(B) An area designated as a central city, regional center, town center, or main street in the Portland Metro 2040 Regional Growth Concept;

(C) An area designated in an acknowledged comprehensive plan as a transit-oriented development or a pedestrian district; or

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.

(b) An area other than those listed in subsection (a) which includes or is planned to include the following characteristics:

(A) A concentration of a variety of land uses in a well-defined area, including the following:

(i) Medium to high density residential development (12 or more units per acre);

(ii) Offices or office buildings;

(iii) Retail stores and services;

(iv) Restaurants; and

(v) Public open space or private open space that is available for public use, such as a park or plaza.

(B) Generally include civic or cultural uses;

(C) A core commercial area where multi-story buildings are permitted;

(D) Buildings and building entrances oriented to streets;

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;

(G) One or more transit stops (in urban areas with fixed route transit service); and

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does

not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

(10) Notwithstanding sections (1) and (2) of this rule, a local government may amend a functional plan, a comprehensive plan, or a land use regulation without applying performance standards related to motor vehicle traffic congestion (e.g. volume to capacity ratio or V/C), delay, or travel time if the amendment meets the requirements of subsection (a) of this section. This section does not exempt a proposed amendment from other transportation performance standards or policies that may apply including, but not limited to, safety for all modes, network connectivity for all modes (e.g. sidewalks, bicycle lanes) and accessibility for freight vehicles of a size and frequency required by the development.

(a) A proposed amendment qualifies for this section if it:

(A) Is a map or text amendment affecting only land entirely within a multimodal mixed-use area (MMA); and

(B) Is consistent with the definition of an MMA and consistent with the function of the MMA as described in the findings designating the MMA.

(b) For the purpose of this rule, "multimodal mixed-use area" or "MMA" means an area:

(A) With a boundary adopted by a local government as provided in subsection (d) or (e) of this section and that has been acknowledged;

(B) Entirely within an urban growth boundary;

(C) With adopted plans and development regulations that allow the uses listed in paragraphs (8)(b)(A) through (C) of this rule and that require new development to be consistent with the characteristics listed in paragraphs (8)(b)(D) through (H) of this rule;

(D) With land use regulations that do not require the provision of off-street parking, or regulations that require lower levels of off-street parking than required in other areas and allow flexibility to meet the parking requirements (e.g. count on-street parking, allow long-term leases, allow shared parking); and

(E) Located in one or more of the categories below:

(i) At least one-quarter mile from any ramp terminal intersection of existing or planned interchanges;

(ii) Within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or

(iii) Within one-quarter mile of a ramp terminal intersection of an existing or planned interchange if the mainline facility provider has provided written concurrence with the MMA designation as provided in subsection (c) of this section.

(c) When a mainline facility provider reviews an MMA designation as provided in subparagraph (b)(E)(iii) of this section, the provider must consider the factors listed in paragraph (A) of this subsection.

(A) The potential for operational or safety effects to the interchange area and the mainline highway, specifically considering:

(i) Whether the interchange area has a crash rate that is higher than the statewide crash rate for similar facilities;

(ii) Whether the interchange area is in the top ten percent of locations identified by the safety priority index system (SPIS) developed by ODOT; and

(iii) Whether existing or potential future traffic queues on the interchange exit ramps extend onto the mainline highway or the portion of the ramp needed to safely accommodate deceleration.

(B) If there are operational or safety effects as described in paragraph (A) of this subsection, the effects may be addressed by an agreement between the local government and the facility provider regarding traffic management plans favoring traffic movements away from the interchange, particularly those facilitating clearing traffic queues on the interchange exit ramps.

(d) A local government may designate an MMA by adopting an amendment to the comprehensive plan or land use regulations to delineate the boundary following an existing zone, multiple existing zones, an urban renewal area, other existing boundary, or establishing a new boundary. The designation must be accompanied by findings showing how the area meets the definition of an MMA. Designation of an MMA is not subject to the requirements in sections (1) and (2)

of this rule.

(e) A local government may designate an MMA on an area where comprehensive plan map designations or land use regulations do not meet the definition, if all of the other elements meet the definition, by concurrently adopting comprehensive plan or land use regulation amendments necessary to meet the definition. Such amendments are not subject to performance standards related to motor vehicle traffic congestion, delay, or travel time.

(11) A local government may approve an amendment with partial mitigation as provided in section (2) of this rule if the amendment complies with subsection (a) of this section, the amendment meets the balancing test in subsection (b) of this section, and the local government coordinates as provided in subsection (c) of this section.

(a) The amendment must meet paragraphs (A) and (B) of this subsection.

(A) Create direct benefits in terms of industrial or traded-sector jobs created or retained by limiting uses to industrial or traded-sector industries.

(B) Not allow retail uses, except limited retail incidental to industrial or traded sector development, not to exceed five percent of the net developable area.

(C) For the purpose of this section:

(i) "Industrial" means employment activities generating income from the production, handling, or distribution of goods including, but not limited to, manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment, and research and development.

(ii) "Traded-sector" means industries in which member firms sell their goods or services into markets for which national or international competition exists.

(b) A local government may accept partial mitigation only if the local government determines that the benefits outweigh the negative effects on local transportation facilities and the local government receives from the provider of any transportation facility that would be significantly affected written concurrence that the benefits outweigh the negative effects on their transportation facilities. If the amendment significantly affects a state highway, then ODOT must coordinate with the Oregon Business Development Department regarding the economic and job creation benefits of the proposed amendment as defined in subsection (a) of this section. The requirement to obtain concurrence from a provider is satisfied if the local government provides notice as required by subsection (c) of this section and the provider does not respond in writing (either concurring or non-concurring) within 45 days.

(c) A local government that proposes to use this section must coordinate with Oregon Business Development Department, Department of Land Conservation and Development, area commission on transportation, metropolitan planning organization, and transportation providers and local governments directly impacted by the proposal to allow opportunities for comments on whether the proposed amendment meets the definition of economic development, how it would affect transportation facilities and the adequacy of proposed mitigation. Informal consultation is encouraged throughout the process starting with pre-application meetings. Coordination has the meaning given in ORS 197.015 and Goal 2 and must include notice at least 45 days before the first evidentiary hearing. Notice must include the following:

(A) Proposed amendment.

(B) Proposed mitigating actions from section (2) of this rule.

(C) Analysis and projections of the extent to which the proposed amendment in combination with proposed mitigating actions would fall short of being consistent with the performance standards of transportation facilities.

(D) Findings showing how the proposed amendment meets the requirements of subsection (a) of this section.

(E) Findings showing that the benefits of the proposed amendment outweigh the negative effects on transportation facilities.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 195.025, ORS 197.230, ORS 197.245, ORS 197.610 – 197.625, ORS 197.628 – 197.646, ORS 197.712, ORS 197.717, ORS 197.732, ORS 197.798

ADOPT: 660-012-0100

REPEAL: Temporary 660-012-0100 from LCDD 2-2022

RULE TITLE: Transportation System Plans in Metropolitan Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for transportation system plan requirements for local governments in metropolitan areas.

RULE TEXT:

(1) Cities shall develop and adopt a transportation system plan. Cities shall develop a transportation system plan and amendments to that plan consistent with the provisions of OAR 660-012-0105 through OAR 660-012-0215. A transportation system plan includes the following elements:

- (a) The core transportation system plan elements as provided in section (2);
- (b) Funding projections as provided in OAR 660-012-0115;
- (c) A transportation options element as provided in OAR 660-012-0145;
- (d) An unconstrained project list as provided in OAR 660-012-0170;
- (e) A financially-constrained project list as provided in OAR 660-012-0180;
- (f) Any refinement plans adopted as provided in OAR 660-012-0190;
- (g) A pedestrian system element as provided in OAR 660-012-0500;
- (h) A bicycle system element as provided in OAR 660-012-0600;
- (i) A public transportation system element as provided in OAR 660-012-0700; and
- (j) A street and highway system element as provided in OAR 660-012-0800.

(2) A transportation system plan shall include the following core elements:

- (a) The base and planning horizon years as provided in section (3) of this rule;
- (b) The land use assumptions as provided in OAR 660-012-0340;
- (c) A list of all elements of the plan, and the date of adoption or amendment of each;
- (d) The coordinated land use and transportation system planning policies in the city's comprehensive plan;
- (e) The local transportation system plan goals and policies;
- (f) Areas with concentrations of underserved populations as provided in OAR 660-012-0125, identified using best available data;
- (g) A record of the engagement, involvement, and decision-making processes used in development of the plan, as provided in OAR 660-012-0130;
- (h) A major equity analysis as provided in OAR 660-012-0135 or an engagement-focused equity analysis as provided in OAR 660-012-0135 for urban areas under 5,000 in population; and
- (i) The dates of each report made to the director as provided in OAR 660-012-0900, including all applicable city and county reports for the planning area.

(3) Cities shall determine the base and horizon years of a transportation system plan as follows:

- (a) The base year is the present or past year which is used for the development of plan elements. The base year shall be the year of adoption of a major update to the Transportation System Update, or no earlier than five years prior.
- (b) The horizon year is the future year for which the plan contains potential projects and shall be at least twenty years from the year of adoption of a major update to the transportation system plan.

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

(5) The development of a transportation system plan shall be coordinated with affected cities, counties, transportation facility owners, and transportation service providers, and transportation options providers.

(6) Adoption or amendment of a transportation system plan shall constitute the land use decision regarding the function, mode, general location, and need for transportation facilities, services, and major improvements.

(7) Adoption or amendment of a transportation system plan shall include findings of compliance with applicable statewide planning goals, acknowledged comprehensive plan policies, and land use regulations.

(8) Cities and counties shall design transportation system plans to achieve transportation performance targets as provided in OAR 660-012-0910.

(9) Metro shall adopt a regional transportation system plan provided in OAR 660-012-0140.

(10) Cities and counties in the Portland Metropolitan Area shall additionally meet the requirements as provided in OAR 660-012-0140.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.180, ORS 197.200, ORS 197.274, ORS 197.712

ADOPT: 660-012-0105

REPEAL: Temporary 660-012-0105 from LCDD 2-2022

RULE TITLE: Transportation System Plan Updates

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas update transportation system plans.

RULE TEXT:

(1) Any amendment to a transportation system plan must be either a major update as provided in section (2), or a minor update, which is any update that is not a major update.

(2) A major update to a transportation system plan is any update that:

(a) Includes a change to the horizon year of the plan;

(b) Is adopted after January 1 of the planning horizon year of the acknowledged plan; or

(c) Adds a facility authorized as provided in OAR 660-012-0830.

(3) A city or county making a major update to a transportation system plan shall:

(a) Update the core transportation system plan elements provided in OAR 660-012-0100(2);

(b) Include all other applicable transportation system plan elements provided in OAR 660-012-0100; and

(c) Comply with the engagement requirements of OAR 660-012-0120.

(4) A city or county making a minor update to a transportation system plan shall, at a minimum:

(a) Update core transportation system plan elements provided in OAR 660-012-0100(2) that are applicable to the scope of the minor update;

(b) Comply with the engagement requirements of OAR 660-012-0120; and

(c) Identify areas with concentrations of underserved populations as provided in OAR 660-012-0125 using best available data; and

(d) Conduct an engagement-focused equity analysis as provided in OAR 660-012-0135.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0110

REPEAL: Temporary 660-012-0110 from LCDD 2-2022

RULE TITLE: Transportation System Planning Area

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for determining the geographic scope of local transportation system plans in metropolitan areas.

RULE TEXT:

(1) The planning area for transportation system plans is the area within the acknowledged urban growth boundary. The unincorporated area within urban growth boundaries is the urbanizable area.

(2) Cities and counties are responsible for cooperatively developing transportation system plans within the urban area, including the urbanizable area. Cities and counties shall jointly determine and agree how transportation system planning will occur in the urbanizable area, including plan adoption.

(a) Cities may develop and adopt a single transportation system plan for the entire urban area;

(b) A county may choose to develop and adopt a separate transportation system plan for areas in the urbanizable area; or

(c) A city and county may jointly determine the geographic extent of each of their transportation system plans within the urban area.

(3) Counties planning for urban areas as provided in this rule, and associated cities, shall meet these requirements:

(a) Counties shall meet the applicable requirements of this division as if they were a city, even when requirements only refer to cities.

(b) Both the city and county shall meet all applicable requirements of this division based on the population of the entire urban area, except where a population threshold in a rule specifically refers to the population of the urban unincorporated area.

(c) When a county develops a transportation system plan for a portion of the urban area within an urban growth boundary, both transportation system plans must have the same planning horizon year. This subsection does not apply in urban areas with more than one city.

(4) Counties shall plan areas outside urban growth boundaries as rural, regardless of location within a metropolitan area. Counties planning for unincorporated communities within a metropolitan area must meet requirements provided in OAR chapter 660, division 22.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0115

REPEAL: Temporary 660-012-0115 from LCDD 2-2022

RULE TITLE: Funding Projections

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop funding projections for local transportation system plans.

RULE TEXT:

(1) Cities and counties must include funding projections in the transportation system plan. Funding projections must include the list of funding sources and amount of funding available, as provided in this rule.

(2) The required list of funding sources must include all funding sources that the city or county expects to use over the planning period to operate, maintain, or construct the transportation system. These sources include, but are not limited to:

(a) Local, regional, state, and federal funding sources; and

(b) Sources expected from any transportation facility or service operator within the planning area.

(3) The list of funding sources shall include, for each source of funding identified:

(a) The expected funding over the remainder of the planning period;

(b) The purpose of the source of funding and any key limitations on the use of the funding; and

(c) Reasons that the funding source is expected to be available during the planning period. These reasons may include, but are not limited to, that the funding is provided by:

(A) Transportation facility pricing revenues, including parking revenues;

(B) Tax or bond revenues;

(C) Fees, charges, or other local revenues;

(D) Grants given using a formula or other regular disbursement;

(E) Regional funds from a Metropolitan Planning Organization; or

(F) A source that previously provided funds to the city or county and can reasonably expected to provide more in the future.

(4) The city or county shall use the list of funding sources to determine the amount of funding expected to be available to develop transportation projects over the planning period. Funding to maintain and operate the transportation system, or used for purposes other than development of transportation projects, shall be excluded. The transportation system plan shall clearly describe the amounts that are included and excluded.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0120

REPEAL: Temporary 660-012-0120 from LCDD 2-2022

RULE TITLE: Transportation System Planning Engagement

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan engage the public when developing local transportation system plans.

RULE TEXT:

(1) Cities and counties shall develop transportation system plans using methods of public engagement and decision making consistent with the statewide planning goals and the local acknowledged comprehensive plan.

(2) Public engagement and decision making shall follow the practices provided in OAR 660-012-0130 to place an increased emphasis on centering the voices of underserved populations identified in OAR 660-012-0125.

(3) Cities or counties engaged in an update of the transportation system plan as provided in OAR 660-012-0105, or an update of the future land use assumptions as provided in OAR 660-012-0340, shall make a special effort to ensure underserved populations, as identified in OAR 660-012-0125, are:

(a) Informed about the choices that need to be made in the planning process;

(b) Given a meaningful opportunity to inform the planning process; and

(c) Given an equitable share of the decision-making power over key decisions, to the extent possible.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0125

REPEAL: Temporary 660-012-0125 from LCDD 2-2022

RULE TITLE: Underserved Populations

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for a definition of underserved populations used throughout the division.

RULE TEXT:

(1) Cities and counties shall prioritize community-led engagement and decision-making, with specific attention to the underserved populations listed in section (2) of this rule.

(2) Underserved populations deserve prioritized attention regarding transportation and land use planning due to historic and current marginalization. Underserved populations include, but are not limited to:

(a) Black and African American people;

(b) Indigenous people (including Tribes, American Indian/Alaska Native and Hawaii Native);

(c) People of Color (including but not limited to Hispanic, Latina/o/x, Asian, Arabic or North African, Middle Eastern, Pacific Islander, and mixed-race or mixed-ethnicity populations);

(d) Immigrants, including undocumented immigrants and refugees;

(e) People with limited English proficiency;

(f) People with disabilities;

(g) People experiencing homelessness;

(h) Low-income and low-wealth community members;

(i) Low- and moderate-income renters and homeowners;

(j) Single parents;

(k) Lesbian, gay, bisexual, transgender, queer, intersex, asexual, or two-spirit community members; and

(l) Youth and seniors.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0130

REPEAL: Temporary 660-012-0130 from LCDD 2-2022

RULE TITLE: Decision-Making with Underserved Populations

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas center underserved populations in decision making.

RULE TEXT:

(1) Cities and counties shall, as a part of an involvement program required as provided in OAR 660-015-0000(1), center the voices of underserved populations in processes at all levels of decision-making under this division. Actions that may accomplish this include, but are not limited to:

- (a) Reporting regularly on progress made under this rule as provided by section (3);
- (b) Conducting equity analyses as provided in OAR 660-012-0135;
- (c) Considering the effect on underserved populations when developing plans, including land use plans and plans for public investment;
- (d) Developing decision-making factors that recognize and work to reduce historic and current inequities; and,
- (e) Engaging in additional outreach activities with underserved populations and in areas with concentrations of underserved populations. Such outreach activities should include activities in multiple languages and formats, and be accessible to:

- (A) People with disabilities,
- (B) People without internet access, and
- (C) People with limited transportation and child care options, and with schedule constraints around employment or other critical responsibilities.

(2) Cities and counties shall identify federally recognized sovereign tribes whose ancestral lands include the planning area. The city or county shall engage with affected tribes to notify them of coordinated land use and transportation planning activities and projects under this division.

(3) Cities and counties shall regularly assess and report on progress made under this rule by:

- (a) Reporting to the department annually as provided in OAR 660-012-0900;
- (b) Making regular reports to the planning commission and governing body of the city or county; and
- (c) Making regular public reports to the community.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0135

REPEAL: Temporary 660-012-0135 from LCDD 2-2022

RULE TITLE: Equity Analysis

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas conduct an equity analysis as required in the division.

RULE TEXT:

(1) Cities and counties shall determine whether the land use and transportation plans required in this division improve outcomes for underserved populations by using an equity analysis. An equity analysis is intended to determine benefits and burdens on underserved populations, as identified in OAR 660-012-0125.

(2) A city or county engaging in a major equity analysis shall conduct all the actions in the engagement-focused equity analysis in section (3). In addition, a city or county shall:

(a) Assess, document, acknowledge, and address where current and past land use, transportation, and housing policies and effects of climate change have harmed or are likely to harm underserved populations;

(b) Assess, document, acknowledge, and address where current and past racism in land use, transportation, and housing has harmed or is likely to harm underserved populations;

(c) Identify geographic areas with significantly disproportionate concentrations of underserved populations;

(d) Develop key performance measures as required in OAR 660-012-0905, or review existing performance measures, for key community outcomes as provided in subsection (3)(a) over time; and

(e) Use the best available data in conducting sections (a) through (d).

(3) A city or county conducting an engagement-focused equity analysis shall:

(a) Engage with members of underserved populations as identified in OAR 660-012-0125 to develop key community outcomes;

(b) Gather, collect, and value qualitative and quantitative information, including lived experience, from the community on how the proposed change benefits or burdens underserved populations;

(c) Recognize where and how intersectional discrimination compounds disadvantages;

(d) Analyze the proposed changes for impacts and alignment with desired key community outcomes and key performance measures under OAR 660-012-0905;

(e) Adopt strategies to create greater equity or minimize negative consequences; and

(f) Report back and share the information learned from the analysis and unresolved issues with people engaged as provided in subsection (a).

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0140

REPEAL: Temporary 660-012-0140 from LCDD 2-2022

RULE TITLE: Transportation System Planning in the Portland Metropolitan Area

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for transportation system planning requirements for local governments and Metro for in the Portland metropolitan area.

RULE TEXT:

(1) This rule applies to cities and counties in the Portland Metropolitan Area, and Metro. In the Portland Metropolitan Area, cities and counties shall develop and adopt local transportation system plans as provided in OAR 660-012-0100. Metro shall develop and adopt a regional transportation system plan as provided in this rule.

(2) Cities and counties shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with Metro's regional transportation system plan. Consistent means city and county comprehensive plans and implementing ordinances conform with the policies and projects in the regional transportation system plan. If Metro finds a local transportation system plan is consistent with the Regional Transportation Functional Plan, the transportation system plan shall be deemed consistent with the regional transportation system plan.

(3) Metro shall prepare, adopt, amend, and update a regional transportation system plan in coordination the with regional transportation plan required by federal law. Insofar as possible, the regional transportation system plan shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division.

(a) When Metro adopts or amends the regional transportation plan to comply with this division as provided in this section, Metro shall review the adopted plan or amendment and either:

(A) Adopt findings that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional transportation system plan and compliant with applicable provisions of this division; or

(B) Adopt amendments to the regional transportation system plan that make the regional transportation plan consistent and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the regional transportation plan amendment or update and shall be adopted no later than one year from the adoption of the regional transportation plan amendment or update or according to a work program approved by the commission. A plan amendment is initiated for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR 660-018-0020.

(b) Adoption or amendment of the regional transportation plan relates to compliance with this division for purposes of this section if it does one or more of the following:

(A) Changes plan policies;

(B) Adds or deletes a project from the list of planned transportation facilities, services, or improvements or from the financially-constrained project list required by federal law;

(C) Modifies the general location of a planned transportation facility or improvement;

(D) Changes the functional classification of a transportation facility; or

(E) Changes the planning period or adopts or modifies the population or employment forecast or allocation upon which the plan is based.

(c) The following amendments to the regional transportation plan do not relate to compliance with this division for purposes of this section:

(A) Adoption of an air quality conformity determination;

(B) Changes to a federal revenue projection;

(C) Changes to estimated cost of a planned transportation project; or

- (D) Deletion of a project from the list of planned projects where the project has been constructed or completed.
- (4) Notwithstanding any requirement in this division, Metro may adopt provisions into a regional functional plan that require cities and counties to meet an additional requirement for transportation system planning where Metro finds that the additional requirement is necessary to meet regional planning objectives and supports the purposes of this division.
- (5) Notwithstanding requirements for transportation system planning areas provided in OAR 660-012-0110:
- (a) Metro shall work cooperatively with cities and counties to determine responsibility for planning areas in the urbanizable area. Where a county has responsibility for a planning area, the county must meet the requirements as provided for counties in OAR 660-012-0110;
 - (b) Counties planning for unincorporated areas within the urban growth boundary shall meet all applicable requirements based on the population of the planning area; and
 - (c) Counties and cities need not have the same planning horizon year.
- (6) Notwithstanding requirements for transportation system inventories as provided in OAR 660-012-0150, Metro shall prescribe inventory requirements in transportation system plans for cities and counties in a regional functional plan.
- (7) Metro may propose alternative requirements in lieu of requirements provided in this division.
- (a) The director shall review proposed alternative requirements to make a recommendation to the commission as to whether the proposed alternative requirements would meet the objectives of the original requirements and support the purposes of this division.
 - (b) The commission shall hold a hearing to review the proposed alternative requirements and the director's recommendation. If the commission finds that the proposed alternative requirements meet the objectives of the original requirements and support the purposes of this division, then the commission shall issue an order approving the proposed alternative requirements; otherwise, the commission shall remand the proposed alternative requirements to Metro with specific directions for changes needed to meet the objectives of the original requirement and support the purposes of this division.
 - (c) Upon approval by the commission, Metro may adopt the proposed alternative requirements into a regional functional plan. Upon adoption by Metro, cities and counties that comply with the alternative requirements of the regional functional plan are no longer required to meet the specific requirements of this division as described in the commission order.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.274, ORS 197.301, ORS 197.712

ADOPT: 660-012-0145

REPEAL: Temporary 660-012-0145 from LCDD 2-2022

RULE TITLE: Transportation Options Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a transportation options element of a transportation system plan.

RULE TEXT:

(1) The transportation system options element of a transportation system plan shall include:

- (a) The existing programs, services, and projects identified in section (2);
- (b) The future transportation demand management needs identified in section (3) and the performance targets set as provided in OAR 660-012-0910; and
- (c) A trip reduction strategy for large employers.

(2) Cities and counties shall coordinate with transportation options providers, public transportation service providers, state agencies, and other cities and counties to identify existing transportation options and transportation demand management programs, services, and projects. These shall include, but are not limited to:

- (a) Education, encouragement, and other transportation demand management programs and services that focus on forms of transportation other than single-occupant vehicles;
- (b) Transportation demand management programs and policies that discourage the use of single-occupancy vehicles; and
- (c) Transportation options needs of underserved populations.

(3) Cities and counties shall coordinate with transportation options providers, public transportation service providers, and other cities and counties to identify future transportation demand management needs. These shall include, but are not limited to:

- (a) Commute trip reduction consultation and promotion of programs such as the provision of transit passes and parking cash-out;
- (b) Physical improvements such as carpool parking spaces and park and ride locations; and
- (c) Regional solutions for intercity travel.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0150

REPEAL: Temporary 660-012-0150 from LCDD 2-2022

RULE TITLE: Transportation System Inventories

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop inventories in a transportation system plan.

RULE TEXT:

(1) This rule applies to transportation inventories as provided in OAR 660-012-0505, OAR 660-012-0605, OAR 660-012-0705, and OAR 660-012-0805.

(2) Cities and counties shall coordinate with other publicly owned transportation facility and service providers, including, but not limited to state agencies, other cities and counties, and public transportation system operators to develop the transportation system inventory.

(3) Inventories shall include all publicly owned, operated, or supported transportation facilities and services within the planning area, regardless of ownership or maintenance responsibility. Inventories shall note ownership or maintenance responsibility for all facilities.

(4) Inventories shall clearly identify the following for each inventoried facility or service:

(a) Function, including the classification of the facility or service, its primary uses, and whether it primarily serves local, regional, pass-through, or freight traffic.

(b) Primary users of the facility, including whether users are primarily on foot, bicycle, transit, freight, or personal vehicle.

(c) Land use context for each segment of the facility, including determining what types of planned land uses surround the facility.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.180, ORS 197.712

ADOPT: 660-012-0155

REPEAL: Temporary 660-012-0155 from LCDD 2-2022

RULE TITLE: Prioritization Framework

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides a prioritization framework for local governments in metropolitan areas when making prioritization decisions in a transportation system plans.

RULE TEXT:

- (1) Cities, counties, Metro, and state agencies shall use the framework in this rule for decision making regarding prioritization of transportation facilities and services. Cities, counties, Metro, and state agencies shall consider the following:
 - (a) Prioritization factors as provided in section (3);
 - (b) Classification of facilities or segments as provided in section (4);
 - (c) The planned land use context as provided in section (5); and
 - (d) Expected primary users as provided in section (6).
- (2) Cities, counties, Metro, and state agencies may use local values determined through engagement as provided in OAR 660-012-0120 to weight various prioritized factors when making prioritization decisions as provided in this division.
- (3) Cities, counties, Metro, and state agencies shall prioritize transportation facilities and services based on the following factors:
 - (a) Meeting greenhouse gas reduction targets, including:
 - (A) Reducing per-capita vehicle miles traveled to meet greenhouse gas reduction targets provided in OAR 660-044-0020 or OAR 660-044-0025;
 - (B) Supporting compact, pedestrian-friendly patterns of development in urban areas, particularly in climate-friendly areas;
 - (C) Reducing single-occupant vehicle travel as a share of overall travel; and
 - (D) Meeting performance targets set as provided in OAR 660-012-0910.
 - (b) Improving equitable outcomes for underserved populations identified in OAR 660-012-0125;
 - (c) Improving safety, particularly reducing or eliminating fatalities and serious injuries;
 - (d) Improving access for people with disabilities;
 - (e) Improving access to destinations, particularly key destinations identified as provided in OAR 660-012-0360;
 - (f) Completing the multimodal transportation network, including filling gaps and making connections;
 - (g) Supporting the economies of the community, region, and state; and
 - (h) Other factors determined in the community.
- (4) Cities, counties, Metro, and state agencies shall consider the functional classification of planned or existing transportation facilities or segments when making decisions about appropriate transportation facilities and services. Cities, counties, Metro, and state agencies may establish different functional classifications for each mode on any facility or segment that they own and operate.
- (5) Cities, counties, Metro, and state agencies shall consider the planned land use context around an existing or planned transportation facility or segment when making decisions about appropriate transportation facilities and services.
 - (a) Within climate-friendly areas, cities, counties, Metro, and state agencies shall prioritize pedestrian, bicycle, and public transportation facilities and services. Cities, counties, Metro, and state agencies shall ensure facilities are planned for these modes to experience safe, low stress, and comfortable travel for people of all ages and abilities within climate-friendly areas with minimal interference from motor vehicle traffic.
 - (b) In areas with concentrations of underserved populations, cities, counties, Metro, and state agencies shall prioritize transportation projects addressing historic and current marginalization. Proposed transportation projects in these areas must work to rectify previous harms and prevent future harms from occurring. These areas may have suffered from disinvestment or harmful investments, including transportation system investments. Such harms include but are

not limited to displacement, increased exposure to pollutants, destruction and division of neighborhoods, heat islands, and unsafe conditions for pedestrians, cyclists, transit users, and others.

(6) Cities, counties, Metro, and state agencies shall consider the expected primary users of an existing or planned transportation facility or segment when making decisions about appropriate transportation facilities and services. In particular:

(a) In areas near schools or other locations with expected concentrations of children, or areas with expected concentrations of older people or people with disabilities, cities, counties, Metro, and state agencies must prioritize safe, protected, and continuous pedestrian and bicycle networks connecting to key destinations, including transit stops.

(b) In industrial areas, along routes accessing key freight terminals, and other areas where accommodations for freight are needed, cities, counties, Metro, and state agencies must consider the needs of freight users. Pedestrian, bicycle, and public transportation system connections must be provided in industrial areas at a level that provides safe access for workers.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.180, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0160

REPEAL: Temporary 660-012-0160 from LCDD 2-2022

RULE TITLE: Reducing Vehicle Miles Traveled

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan to reduce vehicle miles traveled.

RULE TEXT:

(1) The following jurisdictions are exempt from the requirements of this rule:

- (a) Cities under 5,000 population;
- (b) Counties under 5,000 population within urban growth boundaries but outside of incorporated cities; and
- (c) Counties under 10,000 population within urban growth boundaries but outside of incorporated cities.

(2) When a city or county, makes a major update to a transportation system plan as provided in OAR 660-012-0105, or Metro makes an update to a regional transportation plan as provided in OAR 660-012-0140, they shall use the following requirements to project vehicle miles traveled per capita for the planning period.

- (a) The city, county, or Metro must prepare a projection that estimates changes between vehicle miles traveled per capita from the base year and vehicle miles traveled per capita that would result from all projects on the financially-constrained project list prepared as provided in OAR 660-012-0180; and
- (b) Projections of vehicle miles traveled per capita must incorporate the best available science on latent and induced travel of additional roadway capacity.

(3) The projections prepared as provided in section (2) must be based on:

- (a) Land use and transportation policies in an acknowledged comprehensive plan and in the proposed transportation system plan;
- (b) Local actions consistent with the adopted performance targets under OAR 660-012-0910, or OAR 660-044-0110; and
- (c) Forecast land use patterns as provided in OAR 660-012-0340.

(4) Cities and counties may only adopt a transportation system plan if the projected vehicle miles traveled per capita at the horizon year using the financially-constrained project list is lower than estimated vehicle miles traveled per capita in the base year scenario.

(5) A city or county is not required to meet the requirements in sections (2) through (4) of this rule if the city or county has selected a financially-constrained project list that does not contain any project that would require review as provided in OAR 660-012-0830(1).

(6) Metro shall adopt a regional transportation plan in which the projected vehicle miles traveled per capita at the horizon year using the financially-constrained project list is lower than the estimated vehicle miles traveled per capita at the base year by an amount that is consistent with the metropolitan greenhouse gas reduction targets in OAR 660-044-0020. Metro may rely on assumptions on future state and federal actions, including the following state-led actions that affect auto operating costs:

- (a) State-led pricing policies, and energy prices; and
- (b) Vehicle and fuel technology, including vehicle mix, vehicle fuel efficiency, fuel mix, and fuel carbon intensity.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.712, ORS 486A.205

ADOPT: 660-012-0170

REPEAL: Temporary 660-012-0170 from LCDD 2-2022

RULE TITLE: Unconstrained Project List

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop an unconstrained project list as part of a transportation system plan.

RULE TEXT:

(1) Cities and counties shall create a combined project list by combining:

(a) The pedestrian project list developed as provided in OAR 660-012-0520;

(b) The bicycle project list developed as provided in OAR 660-012-0620;

(c) The public transportation project list developed as provided in OAR 660-012-0720; and

(d) The streets and highways project list developed as provided in OAR 660-012-0820.

(2) Cities and counties shall, to the extent practicable, combine proposed projects from multiple single-mode lists into a single multimodal project on the combined project list.

(3) Cities and counties shall develop an unconstrained project list by prioritizing the combined project list, including multimodal projects. Cities and counties need not include every project in the combined project list on the unconstrained project list. There is no limit to the number of projects that may be included on the unconstrained project list.

(4) Cities and counties shall develop a method of prioritizing projects on the unconstrained project list. Projects on the unconstrained project list may be ranked individually or in tiers. Unconstrained project lists ranked in tiers shall have enough tiers to clearly be able to determine the relative ranking of projects when making decisions. Cities and counties shall describe the method used to prioritize the unconstrained project list in the transportation system plan. Cities and counties must emphasize the following requirements when developing a method of prioritizing projects on the unconstrained project list:

(a) The project will help reduce vehicle miles traveled;

(b) The project burdens underserved populations less than and benefit as much as the city or county population as a whole; and

(c) The project will help achieve the performance targets set as provided in OAR 660-012-0910.

(5) Cities and counties shall develop planning-level cost estimates for the top ranked projects on the prioritized unconstrained project list as provided in section (4). The city or county shall make estimates for as many projects as the city or county reasonably believes could be funded in the planning period. The city or county need not make cost estimates for every project on the unconstrained project list.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.899, ORS 197.012, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0180

REPEAL: Temporary 660-012-0180 from LCDD 2-2022

RULE TITLE: Financially-Constrained Project List

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a financially-constrained project list as part of a transportation system plan.

RULE TEXT:

- (1) Cities and counties shall include a financially-constrained project list in a transportation system plan. Cities and counties shall use the prioritized unconstrained project list developed as provided in OAR 660-012-0170 and the amount of funding available developed as provided in OAR 660-012-0115 to produce the financially-constrained project list.
- (2) Cities, counties, Metro, and the state may only develop, fund, and construct projects on the financially-constrained project list.
- (a) Cities and counties may only submit projects on the financially-constrained project list in their transportation system plan to the financially-constrained list of a federally-required regional transportation plan.
- (b) Cities and counties may permit projects on the unconstrained project list but not on the financially-constrained list to be constructed if the project is built by a property owner as a requirement of land development and the project would not require review as provided in OAR 660-012-0830.
- (3) Cities and counties shall create a financially-constrained project list using the top available projects on the prioritized unconstrained project list and the planning-level cost estimates developed as provided in OAR 660-012-0170. The sum of the planning-level cost estimates for projects placed on the financially-constrained project list shall not exceed 125 percent of the funding available as identified in OAR 660-012-0115. Cities and counties shall select projects such that the resulting financially-constrained list would:
 - (a) Reduce per capita vehicle miles traveled, as provided in OAR 660-012-0160;
 - (b) Burden underserved populations less than and benefit underserved populations as much or more as the city or county population as a whole; and
 - (c) Make significant progress towards meeting the performance targets set for each performance measure as provided in OAR 660-012-0910 or OAR 660-044-0110.
- (4) If the list of projects cannot meet each test in section (3), the city or county must adjust the project list to find the highest-ranking set of projects that can meet the criteria in section (3). This is the financially-constrained project list.
- (5) Cities or counties making a major or minor amendment to the transportation system plan as provided in OAR 660-012-0105 which includes an update to any project list, shall update the financially-constrained project list as provided in this rule.
- (6) Cities and counties shall prioritize the implementation of projects from the financially-constrained project list for their ability to reduce climate pollution and improve equitable outcomes using the criteria provided in section (3) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0190

REPEAL: Temporary 660-012-0190 from LCDD 2-2022

RULE TITLE: Transportation System Refinement Plans

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas may defer some decisions that would otherwise be made in a transportation system plan to a later refinement planning process.

RULE TEXT:

(1) A city or county may, when adopting a major update to the transportation system plan as provided in OAR 660-012-0105, defer decisions regarding function, general location, and mode of a refinement plan if findings are adopted that:

(a) Identify the transportation need for which decisions regarding function, general location, or mode are being deferred;

(b) Demonstrate why information required to make final determinations regarding function, general location, or mode cannot reasonably be made available within the time allowed for preparation of the transportation system plan;

(c) Explain how deferral does not invalidate the assumptions upon which the transportation system plan is based or preclude implementation of the remainder of the transportation system plan;

(d) Describe the nature of the findings that will be needed to resolve issues deferred to a refinement plan; and

(e) Set a deadline for adoption of a refinement plan.

(2) Where a Corridor Environmental Impact Statement (EIS) is prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the development of the refinement plan shall be coordinated with the preparation of the Corridor EIS. The refinement plan shall be adopted prior to the issuance of the Final EIS.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.200, ORS 197.712

ADOPT: 660-012-0200

REPEAL: Temporary 660-012-0200 from LCDD 2-2022

RULE TITLE: Temporary Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for local governments to implement certain temporary or pilot projects without amending a transportation system plan.

RULE TEXT:

(1) Notwithstanding any other part of this division, an operator of a transportation facility may undertake a temporary project to change streets, roads, or highways consistent with this rule, without specific inclusion in a project list in a transportation system plan.

(2) Temporary projects may include:

(a) Temporary projects to convert areas dedicated to existing on-street parking or general-purpose travel lanes to pedestrian facilities, areas, or plazas; bicycle facilities; or transit lanes.

(b) Temporary projects to implement a pilot program to price facilities for motor vehicles on a street or highway. This rule does not restrain any parking pricing or parking management activities.

(c) Temporary transportation projects to provide basic transportation network connectivity and function after a major emergency impacting the transportation system to a significant degree.

(3) Temporary projects as provided in this rule may be in place until the end of the planning period. Projects extending past this duration must be adopted into the transportation system plan.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0210

REPEAL: Temporary 660-012-0210 from LCDD 2-2022

RULE TITLE: Transportation Modeling and Analysis

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas use transportation modeling and analysis to make land use decisions.

RULE TEXT:

- (1) A city or county relying on transportation models or mathematical analysis of the transportation system to make a land use decision shall do so consistently with this rule.
- (2) The model or analysis must account for changes in vehicle miles traveled per capita that would result from any transportation projects proposed as a part of the land use decision.
- (3) The assumptions and inputs used with the modeling or analysis must be consistent with acknowledged plans.
- (4) The modeling or analysis must demonstrate that the land use decision will not increase vehicle miles traveled per capita.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0215

REPEAL: Temporary 660-012-0215 from LCDD 2-2022

RULE TITLE: Transportation Performance Standards

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for low local governments in metropolitan areas use transportation performance standards.

RULE TEXT:

(1) This rule applies to transportation performance standards that cities and counties use to review comprehensive plan and land use regulation amendments as provided in OAR 660-012-0060. If a city or county requires applicants to analyze transportation impacts as part of development review in acknowledged local land use regulations, then that review must include evaluation of the performance standards established under this rule. This rule applies to transportation performance standards that Metro uses to review functional plan amendments as provided in OAR 660-012-0060.

(2) Cities and counties shall adopt transportation performance standards. The transportation performance standards must support meeting the targets for performance measures set as provided in OAR 660-012-0910. The transportation performance standards must include these elements:

(3) Characteristics of the transportation system that will be measured, estimated, or projected, and the methods to calculate their performance;

(4) Thresholds to determine whether the measured, estimated, or projected performance meets the performance standard. Thresholds may vary by facility type, location, or other factors. Thresholds shall be set at the end of the planning period, time of development, or another time; and

(5) Findings for how the performance standard supports meeting the targets for performance measures set as provided in OAR 660-012-0910.

(6) Cities, counties, Metro, and state agencies shall adopt two or more transportation performance standards. At least one of the transportation performance standards must support increasing transportation options and avoiding principal reliance on the automobile. The transportation system plan must clearly establish how to apply the multiple performance standards to a proposal that meets some, but not all, of the transportation performance standards. The transportation performance standards must evaluate at least two of the following objectives for the transportation system, for any or all modes of transportation:

(a) Reducing climate pollution;

(b) Equity;

(c) Safety;

(d) Network connectivity;

(e) Accessibility;

(f) Efficiency;

(g) Reliability; and

(h) Mobility.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.180, ORS 197.712

ADOPT: 660-012-0300

REPEAL: Temporary 660-012-0300 from LCDD 2-2022

RULE TITLE: Coordinated Land Use and Transportation System Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas generally accomplish coordinated land use and transportation planning.

RULE TEXT:

- (1) Cities and counties shall coordinate land use and transportation plans.
- (2) Cities and counties shall, if applicable, adopt and implement climate-friendly areas as provided in OAR 660-012-0310.
- (3) Cities and counties shall adopt and implement the applicable land use requirements as provided in OAR 660-012-0330.
- (4) Cities and counties shall, in the development of transportation plans, use the land use assumptions developed as provided in OAR 660-012-0340.
- (5) Cities and counties shall develop a list of key destinations, identified as provided in OAR 660-012-0360.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0310

REPEAL: Temporary 660-012-0310 from LCDD 2-2022

RULE TITLE: Climate Friendly Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule sets out locational requirements for areas to be considered for designation as a climate-friendly area. The rule also identifies local governments subject to the requirement to designate climate-friendly areas; or within Metro, to designate Region 2040 centers.

RULE TEXT:

(1) This rule, OAR 660-012-0315, and OAR 660-012-0320 apply to cities and counties that:

- (a) Are within a metropolitan area other than the Portland Metropolitan Area;
- (b) Are inside incorporated cities or areas within an urban growth boundary as provided in section (3); and
- (c) Have a population of more than 5,000 within an urban growth boundary.

(2) Cities and counties shall study and zone climate-friendly areas for locations that meet the following requirements.

(a) Locations able to support development consistent with the land use requirements of OAR 660-012-0320.

(b) The locations shall be in existing or planned urban centers, including downtowns, neighborhood centers, transit-served corridors, or similar districts. To the extent practicable, climate-friendly areas should be located within, or in close proximity to, areas planned for, or provided with, high-density residential uses and a high concentration of employment opportunities.

(c) The locations shall be in areas that are served, or planned for service, by high quality pedestrian, bicycle, and transit services.

(d) The locations shall not be in areas where development is limited or disallowed by provisions adopted pursuant to Statewide Planning Goal 7. Climate-friendly areas may be designated in such areas if the local government has adopted requirements for development that will mitigate potential hazards to life and property, in compliance with Statewide Planning Goal 7.

(e) Cities may designate climate-friendly areas within the urban growth boundary, but outside the city limits boundary, if the following requirements are met:

(A) The area is contiguous with the city limits boundary;

(B) The provision of urban services is contingent upon annexation into the city limits and the area is readily serviceable with urban water, sewer, stormwater, and transportation. "Readily serviceable" means that urban infrastructure services are nearby and could be provided to allow construction on the site within one year of an application for a building permit;

(C) The zoning that will be applied upon annexation, based on the city's comprehensive plan designation for the area, is consistent with climate-friendly area requirements;

(D) The county in which the subject area is located has adopted a consistent comprehensive plan designation for the area; and

(E) The city can demonstrate that at least 70 percent of complete annexation applications within the last five years have been approved within one year of the date of complete annexation application.

(f) Climate-friendly areas shall have a minimum width of 750 feet, including any internal rights of way that may be unzoned. Contiguous climate-friendly areas with distinct land use requirements may be considered cumulatively to demonstrate compliance with the minimum width requirement. Exceptions to these minimum dimensional requirements are allowed due to natural barriers, such as rivers; or due to long-term barriers in the built environment, such as freeways. Exceptions are also allowed if potential climate-friendly areas are constrained by adjacent areas planned and zoned to meet industrial land needs.

(3) Cities and counties shall designate climate-friendly areas. Counties with planning jurisdiction in unincorporated areas provided with urban water, sanitary sewer, stormwater, and transportation services within an identified urban growth boundary shall coordinate with the respective city or cities to address climate-friendly area requirements for

those areas. Areas under county jurisdiction outside urban growth boundaries; or within urban growth boundaries but not provided with urban water, sanitary sewer, stormwater, and transportation services; are not subject to this rule.

(4) Cities and counties shall designate climate-friendly areas as they cross the population thresholds in subsections (a) and (b). City population is as determined by the most recently certified Portland State University Population Research Center population estimate. Compliance timelines are based upon the date of the certification of the population estimate. County population within an urban growth boundary may be calculated by interpolating Portland State University Population Research Center's population forecast for the area within an urban growth boundary, then subtracting the certified city population estimate from the total population within the urban growth boundary for the current year.

(a) A city or county with a population within an urban growth boundary exceeding 5,000, but less than 10,001 shall submit a study of potential climate-friendly areas to the department as provided in OAR 660-012-0315 within 545 days of reaching a population exceeding 5,000. The city or county shall subsequently adopt land use requirements as provided in OAR 660-012-0315, and climate-friendly elements to their comprehensive plans within 365 days of the deadline for submittal of the study of potential climate-friendly areas.

(b) A city or a county with a population exceeding 10,000 within an urban growth boundary shall submit a study of potential climate-friendly areas to the department as provided in OAR 660-012-0315 within 545 days of reaching a population exceeding 10,000. The city or county shall subsequently adopt land use requirements as provided in OAR 660-012-0315, and climate-friendly elements to their comprehensive plans within 365 days of the deadline for submittal of the study of potential climate-friendly areas. The city or county shall maintain sufficient lands within climate-friendly areas as their population grows, as provided in OAR 660-012-0315. For cities also subject to OAR 660-008-0045, compliance with this requirement shall be demonstrated in each Housing Capacity Analysis following the initial designation of climate-friendly areas. Land use requirements for climate-friendly areas shall be established concurrent or prior to the adoption of the Housing Capacity Analysis as provided in OAR 660-012-0320. Counties subject to this rule shall coordinate with cities to address climate-friendly area requirements within an urban growth boundary.

(5) If a city or county has not designated sufficient climate-friendly areas as provided in this rule, the commission may:

- (a) Initiate periodic review for the city or county to address the requirement; or
- (b) Issue an enforcement order to the city or county, consistent with ORS 197.646.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.615, ORS 197.646, ORS 197.712

ADOPT: 660-012-0315

REPEAL: Temporary 660-012-0315 from LCDD 2-2022

RULE TITLE: Designation of Climate Friendly Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule describes required analysis and the process and information needed for identified local governments to first study, then zone, climate-friendly areas.

RULE TEXT:

(1) The designation of climate-friendly areas refers to the process of studying potential climate-friendly areas and adopting land use requirements and climate-friendly elements into comprehensive plans, as provided in this rule. Cities and counties subject to the requirements of OAR 660-012-0310 with a population greater than 10,000 shall designate climate-friendly areas sufficient to accommodate at least 30 percent of the total identified number of housing units necessary to meet all current and future housing needs by calculating zoned building capacity as provided in section (2), or using an alternative methodology as provided in OAR 660-012-0320(10).

(a) A local government may designate one or more climate-friendly areas to accommodate at least 30 percent of housing units.

(b) The total number of housing units necessary to meet all current and future housing needs shall be determined from the local government's most recently adopted and acknowledged housing capacity analysis, by adding the total number of existing dwelling units identified in the buildable land inventory to the anticipated number of future needed housing units over the planning period of the housing capacity analysis.

(2) Cities and counties subject to section (1) shall calculate the housing unit capacity within climate-friendly areas, as follows:

(a) Regardless of existing development in a climate-friendly area, determine the potential square footage of zoned building capacity for each net developable area based on existing or anticipated development standards within the climate-friendly area, including applicable setbacks, allowed building heights, open space requirements, on-site parking requirements, and similar regulations. Within developed areas with no blocks greater than 5.5 acres, analysis of net developable areas may be conducted for each city block, without regard to property boundaries within the block. Within areas bounded by streets of 5.5 acres or more, the local government shall assume the same ratio of total land area to net land area as that which exists in the most fully developed urban center.

(b) Where the local government has not established a maximum building height, assumed building height shall be 85 feet. For the purpose of calculating zoned building capacity, cities and counties may assume the following number of floors within multistory buildings, based on allowed building heights:

(A) Fifty feet allows for four floors.

(B) Sixty feet allows for five floors.

(C) Eighty-five feet allows for seven floors.

(c) If a local government allows height bonuses above the maximum building heights used for calculations in subsection (b), the local government may include 25 percent of that additional zoned building capacity when the bonuses:

(A) Allow building heights above the minimums established in OAR 660-012-0320(8); and,

(B) Allow height bonuses for publicly-subsidized housing serving households with an income of 80 percent or less of the area median household income, or height bonuses for the construction of accessible dwelling units, as defined in OAR 660-008-0050(4)(a), in excess of minimum requirements.

(d) Local governments shall assume that residential dwellings will occupy 30 percent of the zoned building capacity calculated in subsections (a), (b), and (c) within climate-friendly areas. Public parks and open space areas within climate-friendly areas that are precluded from development shall not be included in calculations of zoned building capacity, but may be counted towards minimum area and dimensional requirements for climate-friendly areas. Zoning and development standards for public parks and open space areas are exempted from compliance with the land use requirements in OAR 660-012-0320 if the existing zoning standards do not allow residential, commercial, or office uses.

- (e) Local governments shall assume an average dwelling unit size of 900 square feet. Local governments shall use the average dwelling unit size to convert the square footage of zoned residential building capacity calculated in subsection (d) into an estimate of the number of dwelling units that may be accommodated in the climate-friendly area.
- (3) Cities and counties subject to the requirements of OAR 660-012-0310 with a population of 10,000 or less shall designate at least 25 acres of land as climate-friendly area.
- (4) Cities and counties must submit a study of potential climate-friendly areas to the department as provided in this rule. The study of potential climate-friendly areas shall include the following information:
- (a) Maps showing the location and size of all potential climate-friendly areas. Cities and counties shall use the study process to identify the most promising area or areas to be chosen as climate-friendly areas but are not required to subsequently adopt and zone each studied area as a climate-friendly area.
 - (b) Cities and counties subject to section (1) shall provide preliminary calculations of zoned residential building capacity and resultant residential dwelling unit capacity within each potential climate-friendly area consistent with section (2), or using an alternative methodology as provided in OAR 660-012-0320(10), and using land use requirements within each climate-friendly area as provided in OAR 660-012-0320. Potential climate-friendly areas must be cumulatively sized and zoned to accommodate at least 30 percent of the total identified number of housing units as provided in section (1).
 - (c) A community engagement plan for the designation of climate-friendly areas, including the process to adopt associated amendments to the comprehensive plan and zoning code, consistent with the requirements of OAR 660-012-0120 through 660-012-0130. The community engagement plan shall be consistent with the requirements for an engagement-focused equity analysis as provided in OAR 660-012-0135(3).
 - (d) Analysis of how each potential climate-friendly area complies, or may be brought into compliance, with the requirements of OAR 660-012-0310(2).
 - (e) A preliminary evaluation of existing development standards within the potential climate-friendly area(s) and a general description of any changes necessary to comply with the requirements of OAR 660-012-0320.
 - (f) Plans for achieving fair and equitable housing outcomes within climate-friendly areas, as identified in OAR 660-008-0050(4)(a)-(f). Analysis of OAR 660-008-0050(4)(f) shall include analysis of spatial and other data to determine if the rezoning of potential climate-friendly areas would be likely to displace residents who are members of state and federal protected classes. The local government shall also identify actions that may be employed to mitigate or avoid potential displacement.
- (5) Cities and counties shall submit climate-friendly area study reports required in section (4). Following submittal, the department shall review reports as follows:
- (a) Within 30 days of receipt of the report, the department shall:
 - (A) Post a complete copy of the submitted report on the department's website along with a statement that any person may file a written comment regarding the submitted report no more than 21 days after the posting of the report.
 - (B) Provide notice to persons described under ORS 197.615(3)(a), directing them to the posting described in paragraph (A) and informing them that they may file a written comment regarding the submitted report no more than 21 days after the posting of the report.
 - (b) Within 60 days of posting of the report on the department's website, the department shall provide written comments to the local government regarding the report information and the progress made to identify suitable climate-friendly areas. The department shall also provide the local government with any written comments submitted by interested persons, as provided in subsection (a).
- (6) Cities and counties must adopt land use requirements as provided in OAR 660-012-0320, and climate-friendly elements to their comprehensive plans. Adoption of land use requirements and the climate-friendly element of the comprehensive plan shall include the following:
- (a) Cities and counties subject to section (1) shall provide maps showing the location of all adopted climate-friendly areas, including calculations to demonstrate that climate-friendly areas contain sufficient zoned residential building capacity to accommodate 30 percent of total housing units as provided in section (2), or using an alternative methodology as provided in OAR 660-012-0320(10), and based on adopted land use requirements in these areas as

provided in OAR 660-012-0320. Cities and counties subject to section (3) shall provide maps showing the location of the adopted climate-friendly area. Local governments subject to (1) or (3) shall include findings containing the information and analysis required in section (4) for any climate-friendly areas that were not included in the initial study specified in section (4).

(b) Documentation of the number of total existing dwelling units, accessible dwelling units, and income-restricted dwelling units within all climate-friendly areas. Where precise data is not available, local governments may provide estimates based on best available information.

(c) Documentation that all adopted and applicable land use requirements for climate-friendly areas are consistent with the provisions of OAR 660-012-0320.

(d) Adoption of a climate-friendly element into the comprehensive plan containing findings and analysis summarizing the local government climate-friendly area designation decision process and demonstration of compliance with the provisions of OAR 660-012-0310 through 660-012-0325. Additionally, adopted findings shall include:

(A) Identification of all ongoing and newly-added housing production strategies the local government shall use to promote the development of affordable housing in climate-friendly areas. The local government may use the Housing Production Strategy Guidance for Cities to review and identify potential strategies, as provided in OAR 660-008-0050(3). These strategies shall be incorporated into future housing production strategy reports, as provided in OAR chapter 660, division 8.

(B) Identification of all ongoing and newly-added housing production strategies the local government shall use to prevent the displacement of members of state and federal protected classes in climate-friendly areas. Findings shall include a description of how the strategies will be implemented based on consideration of identified neighborhood typologies and the most effective measures to prevent displacement based on typology. The local government may use the Housing Production Strategy Guidance for Cities, along with the department's "Anti-Displacement and Gentrification Toolkit" to identify the most effective measures to prevent displacement based on neighborhood typologies. These strategies shall be incorporated into future housing production strategy reports, as provided in OAR chapter 660, division 8.

(7) For cities and counties identified in section (1), the information provided in compliance with subsections (6)(b) and (d) shall provide a basis for subsequent Housing Production Strategy Reports to assess progress towards fair and equitable housing production goals in climate-friendly areas, as provided in OAR 660-008-0050(4)(a).

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0320

REPEAL: Temporary 660-012-0320 from LCDD 2-2022

RULE TITLE: Land Use Requirements in Climate Friendly Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule identifies land use requirements for climate-friendly areas.

RULE TEXT:

(1) Cities and counties subject to the provisions of OAR 660-012-0310 shall incorporate the requirements in sections (2) through (7) of this rule into policies and development regulations that apply in all climate-friendly areas. Cities and counties shall either incorporate the provisions in section (8) into development regulations for climate-friendly areas, or shall demonstrate with adopted findings and analysis that alternative development regulations for climate-friendly areas will result in equal or higher levels of development in climate-friendly areas as provided in section (9). If adopting more than one climate-friendly area, a city or county may demonstrate compliance with either section (8) or section (9) for each climate-friendly area, provided that all requirements for each respective climate-friendly area are met.

(2) Except as noted in subsection (a) and section (3), development regulations for a climate-friendly area shall allow single-use and mixed-use development within individual buildings and development sites, including the following outright permitted uses:

(a) Multifamily residential and attached single-family residential. Other residential building types may be allowed, subject to compliance with applicable minimum density requirements in section (8) of this rule, or alternative land use requirements as provided in section (9). Notwithstanding this section, local governments may require ground floor commercial and office uses within otherwise single-use multifamily residential buildings.

(b) Office-type uses.

(c) Non-auto dependent retail, services, and other commercial uses.

(d) Child care, schools, and other public uses, including public-serving government facilities.

(3) Portions of abutting residential or employment-oriented zoned areas within a half-mile walking distance of a mixed-use area zoned as provided in section (1) may count towards climate-friendly area requirements, if in compliance with subsections (a) or (b). Notwithstanding existing development, zoned residential building capacity shall be calculated for the abutting areas based on allowed building heights and existing development standards in these areas, as provided in OAR 660-012-0315(2) or using an alternative methodology as provided in OAR 660-012-0320(10). Residential and employment densities for abutting areas shall correspond to the climate-friendly area type, provided in subsections (8)(a), (b), or (c) or (9)(a), (b), or (c). If subsections (a) or (b) are met, no changes to existing zoning or development standards are required for these areas.

(a) Residential areas with minimum residential densities or existing residential development equal to or greater than the densities provided in section (8); or

(b) Existing employment uses equal to or greater than the number of jobs per acre provided in section (9).

(4) Local governments shall prioritize locating government facilities that provide direct service to the public within climate-friendly areas and shall prioritize locating parks, open space, plazas, and similar public amenities in or near climate-friendly areas that do not contain sufficient parks, open space, plazas, or similar public amenities. Local governments shall amend comprehensive plans to reflect these policies, where necessary. Streetscape requirements in climate-friendly areas shall include street trees and other landscaping, where feasible.

(5) Local governments shall establish maximum block length standards as provided below. For the purpose of this rule, a development site consists of the total site area proposed for development, absent previously dedicated rights-of-way, but including areas where additional right-of-way dedication may be required.

(a) For development sites less than 5.5 acres in size, a maximum block length of 500 feet or less. Where block length exceeds 350 feet, a public pedestrian through-block easement shall be provided to facilitate safe and convenient pedestrian connectivity in climate-friendly areas. Substantial redevelopment of sites of two acres or more within an existing block that does not meet the standard shall provide a public pedestrian accessway allowing direct passage

through the development site such that no pedestrian route will exceed 350 feet along any block face. Local governments may grant exceptions to street and accessway requirements as provided in OAR 660-012-0330(2).

(b) For development sites of 5.5 acres or more, a maximum block length of 350 feet or less. Local governments may grant exemptions to street requirements as provided in OAR 660-012-0330(2).

(6) Development regulations may not include a maximum density limitation.

(7) Local governments shall adopt policies and development regulations in climate-friendly areas that implement the following:

(a) The transportation review process in OAR 660-012-0325;

(b) The land use requirements as provided in OAR 660-012-0330;

(c) The applicable parking requirements as provided in OAR 660-012-0435; and

(d) The applicable bicycle parking requirements as provided in OAR 660-012-0630.

(8) Local governments shall adopt either the following provisions into development regulations for climate-friendly areas, or the requirements in section (9). Local governments are not required to enforce the minimum residential densities below for mixed-use buildings (buildings that contain residential units, as well as office, commercial, or other non-residential uses) if the mixed-use buildings meet a minimum floor area ratio of 2.0. A floor area ratio is the ratio of the gross floor area of all buildings on a development site, excluding areas within buildings that are dedicated to vehicular parking and circulation, in proportion to the net area of the development site on which the buildings are located. A floor area ratio of 2.0 would indicate that the gross floor area of the building was twice the net area of the site. Local governments are not required to enforce the minimum residential densities below for redevelopment that renovates and adds residential units within existing buildings, but that does not add residential units outside the existing exterior of the building.

(a) Local governments with a population greater than 5,000 up to 25,000 shall adopt the following development regulations for climate-friendly areas:

(A) A minimum residential density requirement of 15 dwelling units per net acre; and

(B) Maximum building height no less than 50 feet.

(b) Local governments with a population greater than 25,000 up to 50,000 shall adopt the following development regulations for at least one climate-friendly area with a minimum area of 25 acres. Additional climate-friendly areas may comply with the following standards or the standards in subsection (a).

(A) A minimum residential density requirement of 20 dwelling units per net acre; and

(B) Maximum building height no less than 60 feet.

(c) Local governments with a population greater than 50,000 shall adopt the following development regulations for at least one climate-friendly area with a minimum area of 25 acres. Additional climate-friendly areas may comply with the following standards or the standards in subsections (a) or (b):

(A) A minimum residential density requirement of 25 dwelling units per net acre; and

(B) Maximum building height no less than 85 feet.

(9) As an alternative to adopting the development regulations in section (8), local governments may demonstrate with adopted findings and analysis that their adopted development regulations for climate-friendly areas will provide for equal or higher levels of development in climate-friendly areas than those allowed per the standards in section (8).

Specifically, the local government must demonstrate that the alternative development regulations will consistently and expeditiously allow for the levels of development described below:

(a) Local governments with a population greater than 5,000 up to 25,000 shall adopt development regulations in climate-friendly areas to enable development of at least 20 dwelling units and 20 jobs per net acre.

(b) Local governments with a population greater than 25,000 up to 50,000 shall adopt development regulations for at least one climate-friendly area of at least 25 acres to enable development of at least 30 dwelling units and 30 jobs per net acre. Additional climate-friendly areas may comply with this standard or with the standard in subsection (a).

(c) Local governments with a population greater than 50,000 shall adopt development regulations for at least one climate-friendly area of at least 25 acres to enable development of at least 40 dwelling units and 40 jobs per net acre.

Additional climate-friendly areas may comply with this standard or with the standard in subsections (a) or (b).

(10) A local government may provide an alternative methodology for zoned residential building capacity calculations that differs from OAR 660-012-0315(2). The methodology must clearly describe all assumptions and calculation steps, and must demonstrate that the methodology provides an equal or better system for determining the zoned residential building capacity sufficient to accommodate at least 30 percent of the total identified number of housing units necessary to meet all current and future housing needs within climate-friendly areas. The alternative methodology shall be supported by studies of development activity in the region, market studies, or similar research and analysis.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0325

REPEAL: Temporary 660-012-0325 from LCDD 2-2022

RULE TITLE: Transportation Review in Climate Friendly Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule describes transportation planning requirements for amendments to comprehensive plans or land use regulations within climate-friendly areas or in Metro's Region 2040 centers.

RULE TEXT:

(1) Cities or counties shall use this rule to review amendments to comprehensive plans or land use regulations within a climate-friendly area designated as provided in OAR 660-012-0315 and in Region 2040 centers designated in Title 6 of Metro's Urban Growth Management Functional Plan. Cities and counties shall use this rule to review land use decisions made to implement OAR 660-012-0310 through OAR 660-012-0320. Cities and counties are exempt from requirements as provided in OAR 660-012-0060 when reviewing amendments to comprehensive plans or land use regulations within a designated climate-friendly area and in Region 2040 centers designated in Title 6 of Metro's Urban Growth Management Functional Plan.

(2) Cities and counties making amendments to comprehensive plans or land use regulations to meet requirements as provided in OAR 660-012-0320 must either:

- (a) Update the transportation system plan as provided in OAR 660-012-0105 and include a multimodal transportation gap summary as provided in section (3) of this rule, considering the proposed land uses in the climate-friendly area; or
- (b) Develop and adopt a multimodal transportation gap summary in coordination with impacted transportation facility providers and transportation service providers as provided in section (3) to meet requirements in OAR 660-012-0320.

(3) A multimodal transportation gap summary must be coordinated between the local jurisdiction, transportation facility providers, and transportation services providers to consider multimodal transportation needs in each climate-friendly area as provided in OAR 660-012-0320 or Region 2040 center. The multimodal transportation gap summary must include:

- (a) A summary of the existing multimodal transportation network within the climate-friendly area;
- (b) A summary of the gaps in the pedestrian and bicycle networks in the climate-friendly area, including gaps needed to be filled for people with disabilities, based on the summary of the existing multimodal transportation network;
- (c) If applicable as provided in section (4), a highway impacts summary as provided in section (5); and
- (d) A list of proposed projects to fill multimodal network gaps identified in subsection (b).

(4) A city or county shall include a highway impacts summary in the multimodal transportation gap summary if the designated climate-friendly area as provided in OAR 660-012-0315 or Region 2040 center contains a ramp terminal intersection, state highway, interstate highway, or adopted ODOT Facility Plan.

(5) A highway impacts summary must identify how the transportation system may be affected by implementation of the climate-friendly area. The highway impacts summary must include:

- (a) A summary of the existing and proposed development capacity of the climate-friendly area based on the proposed changes to the comprehensive plan and land use regulations;
- (b) A summary of the additional motor vehicle traffic generation that may be expected in the planning period, considering reductions for expected complementary mixed-use development, additional multimodal options, and assuming meeting goals for reductions in vehicle miles traveled per capita; and
- (c) A summary of traffic-related deaths and serious injuries within the climate-friendly area in the past five years.

(6) Cities and counties making amendments to adopted land use regulations shall adopt findings including a highway impacts summary as provided in section (5) if:

- (a) A city or county is reviewing a plan amendment within one-quarter mile of a ramp terminal intersection, adopted Interchange Area Management Plan area, or adopted ODOT Facility Plan area, or;
- (b) The city or county is reviewing a plan amendment that would be reasonably likely to result in increasing traffic on the state facility that exceeds the small increase in traffic defined in the Oregon Highway Plan adopted by the Oregon

Transportation Commission.

(7) Cities and counties shall provide notice of proposed adoption of a multimodal transportation gap summary or a revised highway impacts summary to ODOT and other affected transportation facility or service providers prior to submitting notice as provided in OAR 660-018-0020.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.610-197.625, ORS 197.712, ORS 197.717

ADOPT: 660-012-0330

REPEAL: Temporary 660-012-0330 from LCDD 2-2022

RULE TITLE: Land Use Requirements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for land use requirements for local governments in metropolitan areas.

RULE TEXT:

(1) Cities and counties shall implement plans and land use regulations to support compact, pedestrian-friendly, mixed-use land use development patterns in urban areas. Land use development patterns must support access by people using pedestrian, bicycle, and public transportation networks.

(2) Cities and counties may allow exemptions to provisions in this rule when conditions on a site or class of sites would make those provisions prohibitively costly or impossible to implement. Cities or counties may adopt land use regulations that provide for exemptions as provided in this section. Any allowed exemption shall advance the purposes of this rule to the extent practical. Conditions that may provide for an exemption include, but are not limited to:

- (a) Topography or natural features;
- (b) Railroads, highways, or other permanent barriers;
- (c) Lot or parcel size, orientation, or shape;
- (d) Available access;
- (e) Existing or nonconforming development;
- (f) To provide for accessibility for people with disabilities; or
- (g) Other site constraints.

(3) Cities and counties shall have land use regulations that provide for pedestrian-friendly and connected neighborhoods. Land use regulations must meet the following requirements for neighborhood design and access:

- (a) Neighborhoods shall be designed with connected networks of streets, paths, accessways, and other facilities to provide circulation within the neighborhood and pedestrian and bicycle system connectivity to adjacent districts. A connected street network is desirable for motor vehicle traffic but may be discontinuous where necessary to limit excessive through-travel, or to protect a safe environment for walking, using mobility devices, and bicycling in the neighborhood.
- (b) Neighborhoods shall be designed with direct pedestrian access to key destinations identified in OAR 660-012-0360 via pedestrian facilities.
- (c) Cities and counties shall set block length and block perimeter standards at distances that will provide for pedestrian network connectivity. Cities and counties may allow alleys or public pedestrian facilities through a block to be used to meet a block length or perimeter standard.
- (d) Cities and counties shall set standards to reduce out-of-direction travel for people using the pedestrian or bicycle networks.

(4) Cities and counties shall have land use regulations in commercial and mixed-use districts that provide for a compact development pattern, easy ability to walk or use mobility devices, and allow direct access on the pedestrian, bicycle, and public transportation networks. Commercial or mixed-use site design land use regulations must meet the following requirements:

- (a) Primary pedestrian entrances to buildings must be oriented to a public pedestrian facility and be accessible to people with mobility disabilities. An uninterrupted accessway, courtyard, plaza, or other pedestrian-oriented space must be provided between primary pedestrian entrances and the public pedestrian facility, except where the entrance opens directly to the pedestrian facility. All pedestrian entrances must be designed to be barrier-free.
- (b) Motor vehicle parking, circulation, access, and loading may be located on site beside or behind buildings. Motor vehicle parking, circulation, access, and loading must not be located on site between buildings and public pedestrian facilities. Bicycle parking may be permitted.
- (c) On-site accessways must be provided to directly connect key pedestrian entrances to public pedestrian facilities, to

any on-site parking, and to adjacent properties, as applicable.

(d) Any pedestrian entrances facing an on-site parking lot must be secondary to primary pedestrian entrances as required in this section. Primary pedestrian entrances for uses open to the public must be open during business hours.

(e) Large sites must be designed with a connected network of public pedestrian facilities to meet the requirements of this section.

(f) Development on sites adjacent to a transit stop or station on a priority transit corridor must be oriented to the transit stop or station. The site design must provide a high level of pedestrian connectivity and amenities adjacent to the stop or station. If there is inadequate space in the existing right of way for transit infrastructure, then the infrastructure must be accommodated on site.

(g) Development standards must be consistent with bicycle parking requirements in OAR 660-012-0630.

(h) These site design land use regulations need not apply to districts with a predominantly industrial or agricultural character.

(5) Cities and counties shall have land use regulations in residential neighborhoods that provide for slow neighborhood streets comfortable for families, efficient and sociable development patterns, and provide for connectivity within the neighborhood and to adjacent districts. Cities and counties must adopt land use regulations to meet these objectives, including but not limited to those related to setbacks, lot size and coverage, building orientation, and access.

(6) Cities and counties shall have land use regulations that ensure auto-oriented land uses are compatible with a community where it is easy to walk or use a mobility device. Auto-oriented land uses include uses related to the operation, sale, maintenance, or fueling of motor vehicles, and uses where the use of a motor vehicle is accessory to the primary use, including drive-through uses. Land use regulations must meet the following requirements:

(a) Auto-oriented land uses must provide safe and convenient access opportunities for people walking, using a mobility device, or riding a bicycle. Ease of access to goods and services must be equivalent to or better than access for people driving a motor vehicle.

(b) Outside of climate-friendly areas, cities and counties may provide for exemptions to this rule in cases where an auto-oriented land use cannot reasonably meet the standards of this rule. Standards developed in cases of an exemption must protect pedestrian facilities.

(7) Cities and counties with an urban area over 100,000 in population must have reasonable land use regulations that allow for development of low-car districts. These districts must be developed with no-car or low-car streets, where walking or using mobility devices are the primary methods of travel within the district. Cities and counties must make provisions for emergency vehicle access and local freight delivery. Low-car districts must be allowed in locations where residential or mixed-use development is authorized.

(8) Cities and counties must implement land use regulations to protect transportation facilities, corridors, and sites for their identified functions. These regulations must include, but are not limited to:

(a) Access control actions consistent with the function of the transportation facility, including but not limited to driveway spacing, median control, and signal spacing;

(b) Standards to protect future construction and operation of streets, transitways, paths, and other transportation facilities;

(c) Standards to protect public use airports as provided in OAR 660-013-0080;

(d) Processes to make a coordinated review of future land use decisions affecting transportation facilities, corridors, or sites;

(e) Processes to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors, or sites for all transportation modes;

(f) Regulations to provide notice to public agencies providing transportation facilities and services, railroads, Metropolitan Planning Organizations, the Oregon Department of Transportation, and the Oregon Department of Aviation of:

(A) Land use applications that require public hearings;

(B) Subdivision and partition applications;

- (C) Other applications that affect private access to roads; and
- (D) Other applications within airport noise corridors and imaginary surfaces that affect airport operations.
- (g) Regulations ensuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities, and performance standards of facilities identified in the TSP.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0340

REPEAL: Temporary 660-012-0340 from LCDD 2-2022

RULE TITLE: Land Use Assumptions

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas make land use assumptions when developing a transportation system plan.

RULE TEXT:

- (1) Future land use assumptions developed under this rule are for the purposes of transportation planning. These land use assumptions are distinct from those used to plan for residential land needs as provided in ORS 197.296.
- (2) A city, county, or Metro must develop and adopt future land use assumptions for transportation planning consistent with this rule when preparing a transportation system plan, or zoning a climate-friendly area or Region 2040 center as provided in OAR 660-012-0325.
- (3) Future land use assumptions must be developed for future years, including but not limited to the planning horizon year of the transportation system plan, and a common horizon year for all jurisdictions within the metropolitan area.
- (4) Future land use assumptions must be consistent with the most recent final population forecast as provided in OAR 660-032-0020 or OAR 660-032-0030, as applicable.
- (5) Future land use assumptions for transportation planning must assume existing acknowledged comprehensive plan designations and policies, and existing land use regulations remaining in force throughout the planning period; except where these designations, policies, or regulations are superseded by statute or rule. Future land use assumptions must assume existing acknowledged urban growth boundaries throughout the planning period.
- (6) Where applicable, future land use assumptions for transportation planning must allocate growth assumptions for employment and housing within climate-friendly areas as provided in OAR 660-012-0320 before allocating growth to other parts of the city or county.
- (7) Future land use assumptions must be developed at a sufficient level of detail to understand where future development is expected.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.296, ORS 197.712

ADOPT: 660-012-0350

REPEAL: Temporary 660-012-0350 from LCDD 2-2022

RULE TITLE: Urban Growth Boundary Expansions

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas are consistent with transportation planning requirements when making expansions to an urban growth boundary.

RULE TEXT:

(1) A city and county must meet the following requirements prior to undertaking an urban growth boundary expansion as provided in OAR 660-024-0020(1) or OAR 660-038-0020(13).

(a) The city must have an acknowledged transportation system plan as provided in OAR 660-012-0100. If the county has responsibility for planning in urban unincorporated areas as provided in OAR 660-012-0110, the county must also have an acknowledged transportation system plan for the urban area as provided in OAR 660-012-0100.

(b) The city must have submitted a major report in the past five years as provided in OAR 660-012-0900 and have had that report approved by order as provided in OAR 660-012-0915.

(c) The city and county must have designated climate-friendly areas as provided in OAR 660-012-0315 and must demonstrate compliance with OAR 660-008-0010(2).

(d) The city and county must have adopted land use regulations as provided in OAR 660-012-0330.

(2) A city and county must meet the following requirements as part of the urban growth boundary expansion process as provided in OAR 660-024-0020(1) or OAR 660-038-0020(13).

(a) Lands otherwise of the same level of priority category for an urban growth boundary expansion as provided in OAR 660-024-0067 or OAR 660-038-0170 may be prioritized by determining the potential level of access to existing urban pedestrian, bicycle, and transit networks, and the ability of those networks to be extended to the candidate areas for expansion as part of the evaluation of the boundary location factors of Goal 14.

(b) Transportation system planning assumptions developed to make decisions about an urban growth boundary expansion must be consistent with performance targets set under OAR 660-012-0910.

(c) Transportation system planning assumptions developed to make decisions about an urban growth boundary expansion may not assume the construction of any facility required to be reviewed as provided in OAR 660-012-0830 if the proposed facility has not been authorized.

(d) The city and county must determine if the designation of additional lands as part of climate-friendly areas will be required to meet the targets for households within these areas, as provided in OAR 660-012-0310.

(3) Where an urban growth boundary is intended to follow an existing or planned street, road, or highway right-of-way, the boundary shall be placed on the rural side of the right-of-way or planned right-of-way, so that the right-of-way is inside the urban growth boundary.

(4) Cities and counties with areas added to an urban growth boundary after August 17, 2022, where the requirements of OAR 660-012-0060 are not applied at the time of urban growth boundary amendment as provided in OAR 660-024-0020 or OAR 660-038-0020, must update the land use assumptions as provided in OAR 660-012-0340 prior to an update of the transportation system plan as provided in OAR 660-012-0105.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 197.798

ADOPT: 660-012-0360

REPEAL: Temporary 660-012-0360 from LCDD 2-2022

RULE TITLE: Key Destinations

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides key destinations that local governments in metropolitan areas use to develop transportation system plans.

RULE TEXT:

(1) Cities and counties shall use best available data to identify key destinations for purposes of coordinated land use and transportation planning. Key destinations are destinations described in this rule, as well as other destinations determined locally that are expected to attract a higher than average rate of pedestrian, bicycle, or transit trips.

(2) Key destinations may include, but are not limited to:

- (a) Climate-friendly areas;
- (b) Pedestrian-oriented commercial areas outside of climate-friendly areas;
- (c) Transit stations, stops, and terminals;
- (d) Retail and service establishments, including grocery stores;
- (e) Child care facilities, schools, and colleges;
- (f) Parks, recreation centers, paths, trails, and open spaces;
- (g) Farmers markets;
- (h) Libraries, government offices, community centers, arts facilities, post offices, social service centers, and other civic destinations;
- (i) Medical or dental clinics and hospitals;
- (j) Major employers;
- (k) Gyms and health clubs;
- (l) Major sports or performance venues; and
- (m) Other key destinations determined locally.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0400

REPEAL: Temporary 660-012-0400 from LCDD 2-2022

RULE TITLE: Parking Management

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must implement parking reform.

RULE TEXT:

(1) OAR 660-012-0400 through OAR 660-012-0450 apply to:

(a) Cities within metropolitan areas; and

(b) Portions of counties in a metropolitan area within an urban growth boundary, where the population of the unincorporated area within the urban growth boundary is 5,000 or more, and the area is served with urban water and sanitary services.

(2) Cities and counties shall adopt comprehensive plans and land use regulations that implement provisions of OAR 660-012-0405 through OAR 660-012-0415.

(3) Cities and counties shall remove parking mandates as directed under OAR 660-012-0420. In lieu of removing parking mandates, cities and counties may amend their comprehensive plans and land use regulations to implement the provisions of OAR 660-012-0425, OAR 660-012-0430, OAR 660-012-0435, OAR 660-012-0440, OAR 660-012-0445, and OAR 660-012-0450.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0405

REPEAL: Temporary 660-012-0405 from LCDD 2-2022

RULE TITLE: Parking Regulation Improvements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must implement parking regulations.

RULE TEXT:

(1) Cities and counties shall adopt land use regulations as provided in this section:

- (a) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;
- (b) Property owners shall be allowed to redevelop any portion of existing off-street parking areas for bicycle-oriented and transit-oriented facilities, including bicycle parking, bus stops and pullouts, bus shelters, park and ride stations, and similar facilities; and
- (c) In applying subsections (a) and (b), land use regulations must allow property owners to go below existing mandated minimum parking supply, access for emergency vehicles must be retained, and adequate parking for truck loading should be considered.

(2) Cities and counties shall adopt policies and land use regulations that allow and encourage the conversion of existing underused parking areas to other uses.

(3) Cities and counties shall adopt policies and land use regulations that allow and facilitate shared parking.

(4) Cities and counties shall adopt land use regulations for any new development that includes more than one-quarter acre of surface parking on a lot or parcel as provided below:

(a) Developments must provide one of the following:

(A) Installation of solar panels with a generation capacity of at least 0.5 kilowatt per parking space on the property. Panels may be located anywhere on the property. In lieu of installing solar panels on site, cities may allow developers to pay \$1,500 per parking space in the development into a city or county fund dedicated to equitable solar or wind energy development or a fund at the Oregon Department of Energy designated for such purpose;

(B) Actions to comply with OAR 330-135-0010; or

(C) Tree canopy covering at least 50 percent of the parking lot at maturity but no more than 15 years after planting.

(b) Developments must provide street trees along driveways but are not required to provide them along drive aisles; and

(c) Developments must provide street-like design and features along driveways including curbs, pedestrian facilities, and buildings built up to pedestrian facilities.

(d) Development of a tree canopy plan under this section shall be done in coordination with the local electric utility, including pre-design, design, building and maintenance phases.

(e) In providing trees under subsections (a), (b) and (c), the following standards shall be met. The tree spacing and species planted must be designed to maintain a continuous canopy. Local codes must provide clear and objective standards to achieve such a canopy. Trees must be planted and maintained to maximize their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species. Trees should be planted in continuous trenches where possible. The city or county shall have minimum standards for planting and tree care no lower than 2021 American National Standards Institute A300 standards, and a process to ensure ongoing compliance with tree planting and maintenance provisions.

(5) Cities and counties shall establish off-street parking maximums in appropriate locations, such as downtowns, designated regional or community centers, and transit-oriented developments.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0410

REPEAL: Temporary 660-012-0410 from LCDD 2-2022

RULE TITLE: Electric Vehicle Charging

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for electric vehicle charging.

RULE TEXT:

(1) This rule applies to cities within a metropolitan area.

(2) Cities shall ensure new development supports electric vehicle charging pursuant to amendments to the state building code adopted pursuant to ORS 455.417.

(3) As authorized in ORS 455.417(4), for new multifamily residential buildings with five or more residential dwelling units, and new mixed-use buildings consisting of privately owned commercial space and five or more residential dwelling units, cities shall require the provision of electrical service capacity, as defined in ORS 455.417, to accommodate 40 percent of all vehicle parking spaces.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 455.417

ADOPT: 660-012-0415

REPEAL: Temporary 660-012-0415 from LCDD 2-2022

RULE TITLE: Parking Maximums and Evaluation in More Populous Communities

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how larger local governments in metropolitan areas must implement parking maximums and evaluate parking.

RULE TEXT:

(1) Cities with populations over 100,000, counties with populations over 100,000 outside city limits but within the urban growth boundary, and cities with populations over 25,000 within the Portland Metropolitan Area, shall set parking maximums in climate-friendly areas and in regional centers and town centers, designated under the Metro Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries map. Those cities and counties shall also set parking maximums on lots or parcels within the transit corridors and rail stop areas listed in OAR 660-012-0440.

(a) Parking maximums shall be no higher than 1.2 off-street parking spaces per studio unit and two off-street parking spaces per non-studio residential unit in a multi-unit development in climate-friendly areas and within one-half mile walking distance of priority transit corridors. These maximums shall include visitor parking;

(b) Parking maximums shall be no higher than five spaces per 1,000 square feet of floor space for all commercial and retail uses other than automobile sales and repair, eating and drinking establishments, and entertainment and commercial recreation uses;

(c) For land uses with more than 65,000 square feet of floor area, surface parking may not consist of more area than the floor area of the building;

(d) In setting parking maximums, cities and counties shall consider setting maximums equal to or less than 150 percent of parking mandates in their adopted land use regulations in effect as of January 1, 2020. A city or county that sets a higher parking maximum must adopt findings for doing so. In no case shall the city or county exceed the limits in subsections (a) through (c) in climate-friendly areas and for developments on parcels or lots within one-half mile of transit corridors and three-quarters mile of rail transit stops listed in OAR 660-012-0440; and

(e) Non-surface parking, such as tuck-under parking, underground and subsurface parking, and parking structures may be exempted from the calculations in this section.

(2) Cities with populations over 200,000 shall, in addition to the requirements in section (1) of this rule:

(a) Study the use of priced on-street timed parking spaces in those areas subject to OAR 660-012-0435 or 660-012-0440. This study shall be conducted every three years or more frequently. Cities shall adjust prices to ensure availability of on-street parking spaces at all hours. This shall include all spaces in the city paid by minutes, hours, or day but need not include spaces where a longer-term paid residential permit is required;

(b) Use time limits or pricing to manage on-street parking spaces in an area at least one year before authorizing any new structured parking on city-owned land including more than 100 spaces in that area after March 31, 2023;

(c) Adopt procedures ensuring prior to approval of construction of additional structured parking projects of more than 300 parking spaces designed to serve existing uses, developer of that parking structure must implement transportation demand management strategies for a period of at least six months designed to shift at least 10 percent of existing vehicle trips ending within one-quarter mile of the proposed parking structure to other modes; and

(d) Adopt design requirements requiring applicants to demonstrate that the ground floor of new private and public structured parking that fronts a public street and includes more than 100 parking spaces would be convertible to other uses in the future, other than driveways needed to access the garage.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0420

REPEAL: Temporary 660-012-0420 from LCDD 2-2022

RULE TITLE: Exemption for Communities without Parking Mandates

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas without parking mandates may be exempted from certain requirements.

RULE TEXT:

(1) Cities and counties that adopt land use regulations that do not include parking mandates are exempt from OAR 660-012-0425 through OAR 660-012-0450.

(2) Cities and counties that retain land use regulations with parking mandates shall conform with OAR 660-012-0425 through OAR 660-012-0450.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0425

REPEAL: Temporary 660-012-0425 from LCDD 2-2022

RULE TITLE: Reducing the Burden of Parking Mandates

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must provide for a variety of approaches to meet parking mandates.

RULE TEXT:

(1) This rule applies to cities and counties that:

(a) Are within a metropolitan area; and

(b) Have not adopted land use regulations without parking mandates as provided in OAR 660-012-0420.

(2) Cities and counties shall adopt and enforce land use regulations as provided in this section:

(a) Garages and carports may not be required for residential developments;

(b) Garage parking spaces shall count towards off-street parking mandates;

(c) Provision of shared parking shall be allowed to meet parking mandates;

(d) Required parking spaces may be provided off-site, within 2,000 feet pedestrian travel of a site. If any parking is provided on site, required parking for parking for people with disabilities shall be on site. If all parking is off-site, parking for people with disabilities must be located within the shortest possible distance of an accessible entrance via an accessible path and no greater than 200 feet from that entrance;

(e) Parking mandates shall be reduced by one off-street parking space for each three kilowatts of capacity in solar panels or wind power that will be provided in a development;

(f) Parking mandates shall be reduced by one off-street parking space for each dedicated car-sharing parking space in a development. Dedicated car-sharing parking spaces shall count as spaces for parking mandates;

(g) Parking mandates shall be reduced by two off-street parking spaces for every electric vehicle charging station provided in a development. Parking spaces that include electric vehicle charging while an automobile is parked shall count towards parking mandates; and

(h) Parking mandates shall be reduced by one off-street parking space for every two units in a development above minimum requirements that are fully accessible to people with mobility disabilities.

(3) Any reductions under section (2) shall be cumulative and not capped.

(4) Cities and counties shall require the parking for multi-family residential units in the areas in OAR 660-012-0440 be unbundled parking.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0430

REPEAL: Temporary 660-012-0430 from LCDD 2-2022

RULE TITLE: Reduction of Parking Mandates for Development Types

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas must reduce parking mandates for some types of development.

RULE TEXT:

(1) This rule applies to cities and counties that:

(a) Are within a metropolitan area; and

(b) Have not adopted land use regulations without parking mandates as provided in OAR 660-012-0420.

(2) Cities and counties may not require more than one parking space per unit in residential developments with more than one dwelling unit on a single legally-established property.

(3) Cities and counties may not require parking for the following development types:

(a) Facilities and homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, including but not limited to a: residential care facility, residential training facility, residential treatment facility, residential training home, residential treatment home, and conversion facility as defined in ORS 443.400;

(b) Child care facility as defined in ORS 329A.250;

(c) Single-room occupancy housing;

(d) Residential units smaller than 750 square feet;

(e) Affordable housing as defined in OAR 660-039-0010;

(f) Publicly supported housing as defined in ORS 456.250;

(g) Emergency and transitional shelters for people experiencing homelessness; and

(h) Domestic violence shelters.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 329A.250, ORS 443.400, ORS 456.250

ADOPT: 660-012-0435

REPEAL: Temporary 660-012-0435 from LCDD 2-2022

RULE TITLE: Parking Reform in Climate Friendly Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement parking reform in climate-friendly areas.

RULE TEXT:

(1) This rule applies to cities and counties that:

(a) Are within a metropolitan area; and

(b) Have not adopted land use regulations without parking mandates as provided in OAR 660-012-0420.

(2) Cities and counties shall adopt land use regulations addressing parking mandates in climate-friendly areas as provided in OAR 660-012-0310. Cities and counties in Metro shall adopt land use regulations addressing parking mandates in regional centers and town centers designated under the Metro Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries map. In each such area, cities and counties shall either:

(a) Remove all parking mandates within the area and on parcels in its jurisdiction that include land within one-quarter mile distance of those areas; or

(b) Manage parking by:

(A) Adopting a parking benefit district with paid on-street parking and some revenues dedicated to public improvements in the area;

(B) Adopting land use amendments to require no more than one-half off-street parking space per dwelling unit in the area; and

(C) Adopting land use regulations without parking mandates for commercial developments.

(3) Cities and counties that opt to retain parking mandates under OAR 660-012-0400 shall require the parking for multi-family residential units in the areas listed in section (2) be unbundled parking.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0440

REPEAL: Temporary 660-012-0440 from LCDD 2-2022

RULE TITLE: Parking Reform Near Transit Corridors

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement parking reform near transit corridors and stops.

RULE TEXT:

(1) This rule applies to cities and counties that:

(a) Are within a metropolitan area; and

(b) Have not adopted land use regulations without parking mandates as provided in OAR 660-012-0420.

(2) Cities and counties may not require parking spaces for developments on a lot or parcel that includes lands within three-quarters mile of rail transit stops.

(3) Cities and counties may not enforce parking mandates for developments on a lot or parcel that includes lands within one-half mile of frequent transit corridors, including:

(a) Priority transit corridors designated under OAR 660-012-0710;

(b) Corridors with bus service arriving with a scheduled frequency of at least four times an hour during peak service; and

(c) Corridors with the most frequent transit route or routes in the community if the scheduled frequency is at least once per hour during peak service.

(4) Cities and counties may use either walking distance or straight-line distance in measuring distances in this rule.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0445

REPEAL: Temporary 660-012-0445 from LCDD 2-2022

RULE TITLE: Parking Management Alternative Approaches

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides options for how local governments in metropolitan areas implement improve parking management.

RULE TEXT:

(1) In lieu of adopting land use regulations without parking mandates under OAR 660-012-0420, cities and counties shall select and implement either a fair parking policy approach as provided in subsection (a) or a reduced regulation parking management approach as provided in subsection (b).

(a) A fair parking policy approach shall include at least three of the following five provisions:

(A) A requirement that parking spaces for each residential unit in developments that include five or more leased or sold residential units on a lot or parcel be unbundled parking. Cities and counties may exempt townhouse and rowhouse development from this requirement;

(B) A requirement that parking spaces serving leased commercial developments be unbundled parking;

(C) A requirement for employers of 50 or more employees who provide free or subsidized parking to their employees at the workplace provide a flexible commute benefit of \$50 per month or the fair market value of that parking, whichever is greater, to those employees eligible for that free or subsidized parking who regularly commute via other modes instead of using that parking;

(D) A tax on the revenue from commercial parking lots collecting no less than 10 percent of income, with revenues dedicated to improving transportation alternatives to drive-alone travel; and

(E) A reduction of parking mandates for new multifamily residential development to no higher than one-half spaces per unit, including visitor parking.

(b) A reduced regulation parking management approach shall include all of the following:

(A) A repeal of all parking mandates within one-half mile pedestrian travel of climate-friendly areas;

(B) A repeal of parking mandates for transit-oriented development and mixed-use development;

(C) A repeal of parking mandates for group quarters, including but not limited to dormitories, religious group quarters, adult care facilities, retirement homes, and other congregate housing;

(D) A repeal of parking mandates for studio apartments, one-bedroom apartments and condominiums in residential developments of five or more units on a lot or parcel;

(E) A repeal of parking mandates for change of use of, or redevelopment of, buildings vacant for more than two years.

Cities and counties may require registration of a building as vacant two years prior to the waiving of parking mandates;

(F) A repeal of requirements to provide additional parking for change of use or redevelopment;

(G) A repeal of parking mandates for expansion of existing businesses by less than 30 percent of a building footprint;

(H) A repeal of parking mandates for buildings within a National Historic District, on the National Register of Historic Places, or on a local inventory of historic resources or buildings;

(I) A repeal of parking mandates for commercial properties that have fewer than ten on-site employees or 3,000 square feet floor space;

(J) A repeal of parking mandates for developments built under the Oregon Residential Reach Code;

(K) A repeal of parking mandates for developments seeking certification under any Leadership in Energy and Environmental Design (LEED) rating system, as evidenced by either proof of pre-certification or registration and submittal of a complete scorecard;

(L) A repeal of parking mandates for schools;

(M) A repeal of parking mandates for bars and taverns;

(N) Setting parking maximums consistent with OAR 660-012-0415(1), notwithstanding populations listed in that section; and

(O) Designation of at least one residential parking district or parking benefit district where on-street parking is managed through permits, payments, or time limits.

(2) Cities and counties may change their selection between subsections (1)(a) and (b) at any time.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0450

REPEAL: Temporary 660-012-0450 from LCDD 2-2022

RULE TITLE: Parking Management in More Populous Communities

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how larger local governments in metropolitan areas manage on-street parking.

RULE TEXT:

(1) Cities with populations over 100,000 shall either:

(a) Adopt land use regulations without parking mandates; or

(b) Price at least 10 percent of on-street parking spaces, and report the percentage of on-street parking spaces that are priced as provided in OAR 660-012-0900. Residential parking permits priced at lower than \$15 per month, 50 cents per day per space, or equivalent amounts do not count towards this total.

(2) Cities may change their selection made between subsections (1)(a) or (b) at any time.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0500

REPEAL: Temporary 660-012-0500 from LCDD 2-2022

RULE TITLE: Pedestrian System Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the pedestrian network in a transportation system plan.

RULE TEXT:

(1) Transportation system plans must include a pedestrian system element that meets the requirements of this rule. For the purposes of this division, the pedestrian system is intended to serve people walking and those using mobility devices or other devices that operate at a similar speed and scale as people walking. The pedestrian system is intended to serve most short trips under one mile in cities.

(2) A pedestrian system element must include the following elements:

(a) The complete pedestrian system as described in section (3) of this rule that includes the full buildout of the pedestrian system within the urban growth boundary;

(b) Identification of gaps and deficiencies in the pedestrian system as described in section (4);

(c) Locations of key pedestrian destinations identified as provided in OAR 660-012-0360; and

(d) A list of prioritized pedestrian system projects developed as provided in OAR 660-012-0520.

(3) The complete pedestrian system is the full buildout of a complete pedestrian system within the planning area. A city or county determines the complete pedestrian system plan by:

(a) Using the pedestrian system inventory developed under OAR 660-012-0505 as a base;

(b) Adding the minimum pedestrian facilities to places that do not presently meet the minimum pedestrian system requirements in OAR 660-012-0510; and

(c) Adding enhanced facilities above the minimum pedestrian system requirements where the city or county finds that enhanced facilities are necessary or desirable to meet the goals of the jurisdiction's comprehensive plan.

(4) Cities and counties shall identify gaps and deficiencies in the pedestrian system by comparing the complete pedestrian system plan with the pedestrian system inventory developed under OAR 660-012-0505. Cities or counties must include any part of the complete pedestrian system not presently built to the standard in the complete pedestrian system plan as a gap or deficiency.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0505

REPEAL: Temporary 660-012-0505 from LCDD 2-2022

RULE TITLE: Pedestrian System Inventory

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the pedestrian network in a transportation system plan.

RULE TEXT:

(1) Pedestrian system inventories must include information on pedestrian facilities and street crossings for all areas within climate-friendly areas, within Metro Region 2040 centers, within one-quarter mile of all schools, and along all arterials and collectors. Pedestrian system inventories should include information on pedestrian facilities and street crossings for all areas within the planning area.

(a) Inventories of pedestrian facilities must include information on width and condition.

(b) Inventories of street crossings must include crossing distances, the type of crossing, closed crossings, curb ramps, and distance between crossings.

(2) Pedestrian system inventories must include the crash risk factors of inventoried pedestrian facilities, including but not limited to speed, volume, and roadway width. Pedestrian system inventories must also include the location of all reported injuries and deaths of people walking or using a mobility device. This must include all reported incidents from the most recent five years of available data prior to the year of adoption of the pedestrian system inventory.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0510

REPEAL: Temporary 660-012-0510 from LCDD 2-2022

RULE TITLE: Pedestrian System Requirements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for pedestrian network standards for local transportation system plans in metropolitan areas.

RULE TEXT:

- (1) This rule describes the minimum planned pedestrian facilities that must be included in plans. Cities and counties may choose to exceed the requirements in this rule.
- (2) Pedestrian facility owners must design, build, and maintain pedestrian facilities to allow comfortable travel for all people, including people with disabilities.
- (3) All streets and highways, other than expressways, shall have pedestrian facilities, as provided in ORS 366.514.
 - (a) Pedestrian facilities must be planned for both sides of each street.
 - (b) Cities shall plan for enhanced pedestrian facilities such as wide, protected sidewalks and pedestrian zones, such as plazas, in the following contexts:
 - (A) Along high volume or high-speed streets;
 - (B) In climate-friendly areas and Metro Region 2040 centers;
 - (C) In areas with concentrations of underserved populations.
 - (c) A substantial portion of the right-of-way in climate-friendly areas and Metro Region 2040 centers must be dedicated to pedestrian uses, including but not limited to sidewalks, pedestrian plazas, and protective buffers.
 - (d) Cities shall plan for enhanced tree canopy and other infrastructure that uses natural and living materials in pedestrian spaces in climate-friendly areas, Metro Region 2040 centers, and areas with concentrations of underserved populations.
 - (4) Off-street multi-use paths must be designed to permit comfortable joint or separated use for people walking, using mobility devices, and cycling. Separated areas for higher speeds and low speeds shall be provided when there is high anticipated use of the path.
 - (5) Enhanced crossings are pedestrian facilities to cross streets or highways that provide a high level of safety and priority to people crossing the street. Enhanced crossings must have adequate nighttime illumination to see pedestrians from all vehicular approaches. Enhanced crossings must be provided, at minimum, in the following locations:
 - (a) Closely spaced along arterial streets in climate-friendly areas and Metro Region 2040 centers;
 - (b) Near transit stops on local access priority arterial segments, or collector streets in a climate-friendly area or Metro Region 2040 center, or on a priority transit corridor;
 - (c) At off-street path crossings; and
 - (d) In areas with concentrations of underserved populations.
 - (6) Cities may take exemptions to the requirements in this rule through findings in the transportation system plan, for each location where an exemption is desired, for the following reasons:
 - (a) A city may plan for a pedestrian facility on one side of local streets in locations where topography or other barriers would make it difficult to build a pedestrian facility on the other side of the street, or where existing and planned land uses make it unnecessary to provide pedestrian access to the other side of the street. Street crossings must be provided near each end of sections where there is a pedestrian facility on only one side of the street.
 - (b) A city or county may plan for no dedicated pedestrian facilities on very slow speed local streets that are sufficiently narrow, and carry little or no vehicular traffic, so that pedestrians are the primary users of the street.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 366.514

ADOPT: 660-012-0520

REPEAL: Temporary 660-012-0520 from LCDD 2-2022

RULE TITLE: Pedestrian System Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of pedestrian system projects in a transportation system plan.

RULE TEXT:

- (1) Cities and counties shall develop a list of pedestrian system projects that would address all the gaps and deficiencies in the pedestrian system identified by the city under OAR 660-012-0500(4).
- (2) Cities and counties shall develop pedestrian project prioritization factors that are able to sort the list of pedestrian system projects into a prioritized list of pedestrian system projects. Cities must develop pedestrian project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.
- (3) Cities and counties shall use the following factors when prioritizing pedestrian system projects:
 - (a) Pedestrian system investments in climate-friendly areas and Metro Region 2040 centers;
 - (b) Pedestrian system investments in areas with concentrations of underserved populations;
 - (c) Pedestrian system investments in areas with pedestrian safety risk factors such as roadways with high speeds and high traffic volumes;
 - (d) Pedestrian system investments in areas with reported crashes involving pedestrian serious injuries and deaths;
 - (e) Pedestrian system investments that provide access to key pedestrian destinations identified as provided in OAR 660-012-0360;
 - (f) Pedestrian system investments that will connect to, fill gaps in, and expand the existing pedestrian network;
 - (g) Pedestrian system investments that prioritize pedestrian travel consistent with the prioritization factors in OAR 660-012-0155; and
 - (h) Where applicable, pedestrian system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.
- (4) The transportation system plan must include a description of the prioritization factors and method of prioritizing pedestrian projects used to develop the prioritized list of pedestrian system projects.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0600

REPEAL: Temporary 660-012-0600 from LCDD 2-2022

RULE TITLE: Bicycle System Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the bicycle network in a transportation system plan.

RULE TEXT:

(1) Transportation system plans must include a bicycle system element that meets the requirements of this rule. The bicycle system must be designed to provide safe and comfortable routes for a range of users and abilities. For the purposes of this division, the bicycle system is intended to serve people riding bicycles and other vehicles that operate at a similar speed and scale to people riding bicycles. These vehicles include, but are not limited to: electric bicycles, kick-style and electric scooters, and skateboards; and do not include motorcycles.

(2) A bicycle system element must include the following elements:

(a) The complete bicycle system as described in section (3) that includes the full buildout of the bicycle system within the urban growth boundary;

(b) Identification of gaps and deficiencies in the bicycle system as described in section (4);

(c) Locations of key bicycle destinations identified as provided in OAR 660-012-0360; and

(d) A list of prioritized bicycle system projects developed as provided in OAR 660-012-0620.

(3) The complete bicycle system is the full buildout of a complete bicycle system within the planning area. A city or county determines the complete bicycle system plan by:

(a) Using the bicycle system inventory developed under OAR 660-012-0605 as a base;

(b) Adding the minimum bicycle facilities to places that do not presently meet the minimum bicycle system requirements in OAR 660-012-0610; and

(c) Adding enhanced facilities above the minimum bicycle system requirements where the city or county finds that enhanced facilities are necessary or desirable to meet the goals of the jurisdiction's comprehensive plan.

(4) Cities and counties shall identify gaps and deficiencies in the bicycle system by comparing the complete bicycle system with the bicycle system inventory developed under OAR 660-012-0605. Cities must include any part of the complete bicycle system not presently built to the standard in the complete bicycle plan as a gap or deficiency.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0605

REPEAL: Temporary 660-012-0605 from LCDD 2-2022

RULE TITLE: Bicycle System Inventory

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the bicycle network in a transportation system plan.

RULE TEXT:

(1) Bicycle system inventories must include information on bicycle lanes, bicycle routes, accessways, paths, and other types of bicycle facilities, including pedestrian facilities that may be used by bicycles. Inventories must include information on width, type, and condition.

(2) Bicycle system inventories must include information on bicycle facilities of all types within climate-friendly areas, within Metro Region 2040 centers, within one-quarter mile of all schools, on bicycle boulevards, and along all arterials and collectors. Bicycle system inventories should include information on bicycle facilities and street crossings for all areas within the planning area.

(3) Bicycle system inventories must include the crash risk factors of inventoried bicycle facilities, including but not limited to speed, volume, separation, and roadway width. Bicycle system inventories must also include the location of all reported injuries and deaths of people on bicycles. This must include all reported incidents from the most recent five years of available data prior to the year of adoption of the bicycle system inventory.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0610

REPEAL: Temporary 660-012-0610 from LCDD 2-2022

RULE TITLE: Bicycle System Requirements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for bicycle network standards for local transportation system plans in metropolitan areas.

RULE TEXT:

- (1) This rule describes the minimum planned bicycle facilities that must be included in plans. Cities or counties may choose to exceed the requirements in this rule.
- (2) Cities and counties shall plan for a connected network of bicycle facilities that provides a safe, low stress, direct, and comfortable experience for people of all ages and abilities. All ages and abilities includes:
 - (a) School-age children;
 - (b) People over 65 years of age;
 - (c) Women;
 - (d) People of color;
 - (e) Low-income riders;
 - (f) People with disabilities;
 - (g) People moving goods, cargo, or other people; and
 - (h) People using shared mobility services.
- (3) A connected network is comprised of both the ability to access key destinations within a community and enough coverage of safe and comfortable facilities to ensure most people within the community can travel by bicycle.
 - (a) Cities and counties must design the connected network to connect to key destinations identified as provided in OAR 660-012-0360, and to and within each climate-friendly area or Metro Region 2040 center.
 - (b) Cities and counties must design the connected network to permit most residents of the planning area to access the connected network with an emphasis on mitigating uncomfortable or unsafe facilities or crossings.
 - (c) The connected network shall consist of connected bicycle facilities including, but not limited to, separated and protected bicycle facilities, bicycle boulevards, and multi-use or bicycle paths. The connected network must include a series of interconnected bicycle facilities and provide direct routes to key destinations. Cities and counties must design comfortable and convenient crossings of streets with high volumes of traffic or high-speed traffic.
 - (4) Cities and counties shall plan and design bicycle facilities considering the context of adjacent motor vehicle facilities and land uses.
 - (a) Cities and counties must design bicycle facilities with higher levels of separation or protection along streets that have higher volumes or speeds of traffic.
 - (b) Cities and counties must plan for separated or protected bicycle facilities on streets in climate-friendly areas, Metro Region 2040 centers, and other places with a concentration of destinations. Separated or protected bicycle facilities may not be necessary on streets with very low levels of motor vehicle traffic or where a high-quality parallel bicycle facility on the connected network exists within one block.
 - (c) Cities and counties must identify locations with existing bicycle facilities along high traffic or high-speed streets where the existing facility is not protected or separated, or parallel facilities do not exist. Cities and counties must plan for a transition to appropriate facilities in these locations.
 - (5) Cities and counties shall adopt standards for bicycle system planning and facilities that will result in a safe, low stress, and comfortable experience for people of all ages and abilities. In adopting standards, cities and counties may use one or more of the following:
 - (a) The Urban Bikeway Design Guide, second edition, published by the National Association of City Transportation Officials;
 - (b) Designing for All Ages & Abilities, December 2017, published by the National Association of City Transportation

Officials; and

(c) For state facilities, The Blueprint for Urban Design, 2019, published by the Oregon Department of Transportation.

(6) Cities and counties shall use the transportation prioritization framework in OAR 660-012-0155 when making decisions about bicycle facilities.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0620

REPEAL: Temporary 660-012-0620 from LCDD 2-2022

RULE TITLE: Bicycle System Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of bicycle system projects in a transportation system plan.

RULE TEXT:

(1) Cities and counties shall develop a list of bicycle system projects that would address all the gaps and deficiencies in the bicycle system identified by the city under OAR 660-012-0600(4).

(2) Cities and counties shall develop bicycle project prioritization factors that are able to sort the list of bicycle system projects into a prioritized list of bicycle system projects. Cities must develop bicycle project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.

(3) Cities and counties shall use the following factors when prioritizing bicycle system projects:

(a) Bicycle system investments in climate-friendly areas and Metro Region 2040 centers;

(b) Bicycle system investments in areas with concentrations of underserved populations;

(c) Bicycle system investments in areas with safety risk factors such as roadways with high speeds and high traffic volumes;

(d) Bicycle system investments in areas with reported crashes involving serious injuries and deaths to people riding bicycles;

(e) Bicycle system investments that provide access to key bicycle destinations identified as provided in OAR 660-012-0360;

(f) Bicycle system investments system investments that will connect to, fill gaps in, and expand the existing bicycle system network;

(g) Bicycle system investments that prioritize bicycle travel consistent with the prioritization factors in OAR 660-012-0155; and

(h) Where applicable, bicycle system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.

(4) The transportation system plan must include a description of the prioritization factors and method of prioritizing bicycle projects used to develop the prioritized list of bicycle system projects.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0630

REPEAL: Temporary 660-012-0630 from LCDD 2-2022

RULE TITLE: Bicycle Parking

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas implement bicycle parking requirements.

RULE TEXT:

- (1) Cities and counties shall require and plan for adequate parking to meet the increasing need for travel by bicycle and other small-scale mobility devices.
- (2) Cities and counties shall require covered, secure bicycle parking for all new multifamily development or mixed-use development of four residential units or more, and new office and institutional developments. Such bicycle parking must include at least one bicycle parking space for each residential unit.
- (3) Cities and counties shall require bicycle parking for all new retail development. Such bicycle parking shall be located within a short distance from the main retail entrance.
- (4) Cities and counties shall require bicycle parking for all major transit stations and park-and-ride lots.
- (5) Cities and counties shall require bicycle parking in climate-friendly areas, Metro Region 2040 centers, and near key destinations identified as provided in OAR 660-012-0360.
- (6) Cities and counties shall allow and provide for parking and ancillary facilities for shared bicycles or other small-scale mobility devices in climate-friendly areas, Metro Region 2040 centers, and near key destinations identified as provided in OAR 660-012-0360.
- (7) Cities and counties shall require bicycle parking for any land use where off-street motor vehicle parking is mandated. The minimum number of bicycle parking spaces shall be no less than the greater of:
 - (a) Twice the number of mandated motor vehicle parking spaces, raised to the power of 0.7, rounded to the next highest whole number; or
 - (b) As otherwise provided in this rule.
- (8) Cities and counties shall ensure that all bicycle parking provided must:
 - (a) Allow ways to secure at least two points on a bicycle;
 - (b) Be installed in a manner to allow space for the bicycle to be maneuvered to a position where it may be secured without conflicts from other parked bicycles, walls, or other obstructions;
 - (c) Be in a location that is convenient and well-lit; and
 - (d) Include sufficient bicycle parking spaces to accommodate large bicycles, including family and cargo bicycles.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0700

REPEAL: Temporary 660-012-0700 from LCDD 2-2022

RULE TITLE: Public Transportation System Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the public transportation network in a transportation system plan.

RULE TEXT:

(1) Transportation system plans must include a public transportation system element that meets the requirements of this rule. Cities and counties must work in close cooperation with transit service providers in order to complete the public transportation system element of the transportation system plan.

(a) Cities and counties shall coordinate with public transportation service providers to develop the public transportation system plan element.

(b) The public transportation system plan element must include elements of the public transportation system that are in the control of the city, county, and coordinating transportation facility owners.

(c) The public transportation system plan element must identify elements of the public transportation system that the city or county will work with transit service providers to realize or improve, including transit priority corridors, transit supportive infrastructure, and stop amenities.

(d) Cities and counties must align the public transportation system plan transit element with Transit Development Plans, goals, and other strategic planning documents developed by a transit service provider.

(e) Transportation system plans do not control public transportation elements exclusively controlled by transit service providers. These include funding or details of transit service provision, including timetables and routing.

(2) A public transportation system element must include the following elements:

(a) The complete public transportation system as described in section (3) that includes the full buildout and provision of services of the public transportation system within the urban growth boundary;

(b) Identification of gaps and deficiencies in the public transportation system as described in section (4);

(c) Locations of key public transportation destinations identified as provided in OAR 660-012-0360; and

(d) A list of prioritized public transportation system projects developed as provided in OAR 660-012-0720.

(3) The complete public transportation system is the full buildout of a complete public transportation system within the planning area. The city or county determines the complete public transportation system plan by:

(a) Using the public transportation system inventory developed under OAR 660-012-0705 as a base; and

(b) Adding the minimum public transportation services and facilities to places that do not presently meet the minimum public transportation system requirements in OAR 660-012-0710.

(4) Cities and counties shall identify gaps and deficiencies in the public transportation system by comparing the complete public transportation system with the public transportation system inventory developed under OAR 660-012-0705. Cities and counties must include any part of the complete public transportation system not presently built or operated to the standards in the complete public transportation system plan as a gap or deficiency. Cities and counties must identify gaps in the transit supportive facilities provided on priority transit corridors and other transit corridors identified as provided in OAR 660-012-0710. Transit supportive facilities include, but are not limited to:

(a) Stations, hubs, stops, shelters, signs, and ancillary features; and

(b) Transit priority infrastructure, including signals, queue jumps, and semi-exclusive or exclusive bus lanes or transitways.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0705

REPEAL: Temporary 660-012-0705 from LCDD 2-2022

RULE TITLE: Public Transportation System Inventory

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the public transportation network in a transportation system plan.

RULE TEXT:

(1) The public transportation system inventory must include information on local and intercity transit services, including the location of routes, major stations, transit stops, transitways, transit lanes, transit priority signals, queue jumps, on-route charging, and other transit supportive facilities not otherwise inventoried. The inventory must document which services and facilities are accessible for people with disabilities based on the requirements in the Americans with Disabilities Act, or locally adopted higher standards.

(2) The public transportation system inventory must include the identification of existing service characteristics, including frequency and span of service for all services along identified transit priority corridors, serving key destinations, and serving major transit stations.

(3) Where local or intercity transit services travel outside of the planning area to other cities, the public transportation system inventory must include the identification of routes connecting to the next nearest cities with a population exceeding 9,000, as well as key destinations and major stations these routes serve.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0710

REPEAL: Temporary 660-012-0710 from LCDD 2-2022

RULE TITLE: Public Transportation System Requirements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for public transportation network standards for local transportation system plans in metropolitan areas.

RULE TEXT:

(1) Cities and counties shall plan for a connected local transit network that serves key destinations identified as provided in OAR 660-012-0360, and can be accessed by housing and jobs within the planning area. Cities must identify transit corridors, including:

- (a) Priority transit corridors, which are transit corridors that are planned for the highest levels of regional transit service providing for a wide range of mobility needs; and
- (b) Other transit corridors, which are planned to carry at least a moderate level of transit service providing for basic mobility needs.

(2) Cities and counties shall plan for a range of transit supportive facilities along priority transit corridors and in other locations where transit priority is desired. Cities and counties shall:

- (a) Coordinate with transit service providers to determine transit priority infrastructure needed on priority transit routes for efficient transit service;
- (b) Prioritize expedited access for transit vehicles to and from major stops, stations, and terminals; and
- (c) Consider intercity transit access to stations or terminals.

(3) Cities and counties shall plan for safe and accessible transit stops and stations.

(a) Along priority transit corridors and other locations where transit priority is desired, cities and counties shall coordinate with transit service providers on the construction of transit supportive facilities. Cities and counties shall allow transit service providers to construct amenities at stops outright, with limited permitting requirements. These amenities include but are not limited to: pedestrian facility repair and extension, signage, lighting, benches, and shelters.

(b) Cities and counties shall limit on-street parking at transit stop locations at the request of a transit service provider.

(4) Cities and counties shall coordinate with transit service providers to identify needs for intercity transit services at a level appropriate to the size of the urban area and the size and distance of intercity markets.

(5) Cities and counties shall coordinate with transit service providers to identify gaps in transit service provided in the transportation system plan, and gaps for each priority transit corridor and other transit corridors.

(6) Cities and counties with an urban area of less than 10,000 population need not plan for priority transit corridors.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0720

REPEAL: Temporary 660-012-0720 from LCDD 2-2022

RULE TITLE: Public Transportation System Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of public transportation system projects in a transportation system plan.

RULE TEXT:

- (1) Cities and counties shall develop a list of public transportation projects that would address all the gaps and deficiencies in the public transportation system identified by the city under OAR 660-012-0700(4).
- (2) Cities and counties shall coordinate with transit service providers to identify the gaps in transit service provided in the transportation system plan and those identified in a land use and transportation scenario plan as provided in OAR 660-044-0110 or in the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission, including the gap in transit miles per capita, and gaps for each priority transit corridor and other transit corridors. The purpose of identifying these gaps is to illustrate the need for transit service operating funds for services operated within the planning area. The transportation system plan need not make provisions for funding operations of transit services directly.
- (3) Cities and counties shall develop public transportation system project prioritization factors that are able to sort the list of public transportation system projects into a prioritized list of public transportation system projects. Cities must develop public transportation project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.
- (4) Cities and counties shall use the following factors when prioritizing public transportation system projects:
 - (a) Public transportation system investments in climate-friendly areas and Metro Region 2040 centers;
 - (b) Public transportation system investments in areas with concentrations of underserved populations, particularly in areas with concentrations of people dependent on public transportation;
 - (c) Public transportation system investments that provide access to key public transportation destinations identified as provided in OAR 660-012-0360;
 - (d) Public transportation system investments that will connect to, fill gaps in, and expand the existing public transportation network;
 - (e) Public transportation system investments that prioritize transit travel consistent with the prioritization factors in OAR 660-012-0155; and
 - (f) Where applicable, public transportation system investments that implement a scenario plan approved by order as provided in OAR 660-044-0120.
- (5) The transportation system plan must include a description of the prioritization factors and method of prioritizing public transportation projects used to develop the prioritized list of public transportation projects.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0800

REPEAL: Temporary 660-012-0800 from LCDD 2-2022

RULE TITLE: Street and Highway System Planning

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas plan for the street and highway network in a transportation system plan.

RULE TEXT:

(1) Transportation system plans must include a street and highway system element that meet the requirements of this rule.

(2) A street and highway system element must include the following elements:

(a) The complete street and highway system as described in section (3) that includes the full buildout of the street and highway system within the urban growth boundary.

(b) Identification of gaps or deficiencies in the street and highway system as described in section (4);

(c) Locations of key destinations identified as provided in OAR 660-012-0360; and

(d) A list of prioritized street and highway system projects developed as provided in OAR 660-012-0820.

(3) The complete street and highway system is the full buildout of a complete street and highway system within the planning area. A city determines the ultimate street and highway system plan by:

(a) Using the street and highway system inventory developed under OAR 660-012-0805 as a base;

(b) Adding the minimum street and highway facilities to places that do not presently meet the minimum street and highway system requirements in OAR 660-012-0810; and

(c) Accommodating the reallocation of right of way on facilities where this is deemed necessary as provided in this division.

(4) Cities and counties shall identify gaps and deficiencies in the street and highway system by comparing the complete street and highway system with the street and highway system inventory developed under OAR 660-012-0805. Cities must include any part of the complete street and highway system not presently built to the standard in the ultimate street and highway plan as a gap or deficiency.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0805

REPEAL: Temporary 660-012-0805 from LCDD 2-2022

RULE TITLE: Street and Highway System Inventory

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas inventory the street and highway network in a transportation system plan.

RULE TEXT:

(1) Street and highway system inventories must include information on all streets and highways, including the functional classification of each facility.

(a) For local streets, inventories must include location.

(b) For collector streets, inventories must include location, condition, and number of general-purpose travel lanes, and turn lanes.

(c) For arterial streets, inventories must include location, condition, and number of general-purpose travel lanes, turn lanes, and lane width.

(d) For expressways and other limited-access highways, inventories must include location, condition, number of general-purpose travel lanes, and lane width. Inventories must also include locations and type of interchanges.

(2) Street and highway system inventories must include the location of all reported serious injuries and deaths of people related to vehicular crashes. This must include all reported incidents from the most recent five years of available data prior to the year of adoption of the street and highway system inventory.

(3) Street and highway system inventories must include an overview of pricing strategies in use, including specific facility pricing, area or cordon pricing, and parking pricing. Inventories must include pricing mechanisms and rates.

(4) Street and highway system inventories must include the location of designated freight routes, and the location of all key freight terminals within the planning area, including intermodal terminals.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0810

REPEAL: Temporary 660-012-0810 from LCDD 2-2022

RULE TITLE: Street and Highway System Requirements

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for street and highway network standards for local transportation system plans in metropolitan areas.

RULE TEXT:

(1) Cities and counties shall plan, design, build, and maintain a connected streets and highway network in a manner that respects the prioritization factors in OAR 660-012-0155.

(a) Cities and counties shall plan streets and highways for the minimum size necessary for the identified function, land use context, and expected users of the facility.

(b) Cities and counties shall consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, increase safety, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, provide for utility placement, and support connected and safe pedestrian and bicycle networks.

(c) Cities and counties shall plan for an equitable allocation of right-of-way consistent with the prioritization factors as provided in OAR 660-012-0155. Streets in climate-friendly areas, Metro Region 2040 centers, and along priority transit corridors must be designed to prioritize pedestrian, bicycle, and transit systems, as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.

(2) Cities and counties shall plan local streets to provide local access to property and localized circulation within neighborhoods.

(a) Cities and counties shall plan and design local streets for low and safe travel speeds compatible with shared pedestrian and bicycle use.

(b) Cities and counties shall establish standards for local streets with pavement width and right-of-way width as narrow as practical to meet needs, reduce the cost of construction, efficiently use urban land, discourage inappropriate traffic volumes and speeds, improve safety, and accommodate convenient pedestrian and bicycle circulation. Local street standards adopted by a city or county must be developed as provided in ORS 368.039. A local street standard where the paved width is no more than 28 feet on streets where on-street parking is permitted on both sides of the street shall be considered adequate to meet this requirement. Wider standards may be adopted if the local government makes findings that the wider standard is necessary.

(c) Cities and counties shall plan and design a complete and connected network of local streets. Cities and counties may plan for chicanes, diverters, or other strategies or devices in local street networks where needed to prevent excessive speed or through travel. These measures must continue to provide for connected and pedestrian and bicycle networks.

(d) Cities and counties shall avoid planning or designing local streets with a dead end. Dead end local streets may be permitted in locations with topographic or other barriers, or where the street is planned to continue to a connected network in the future.

(e) Cities and counties shall plan for multimodal travel on local streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710. Cities and counties must plan local streets in climate-friendly areas and Metro Region 2040 centers to prioritize pedestrian and bicycle systems, and be limited to local access for motor vehicles.

(f) A city or county may plan for local streets to be wider than otherwise allowed in this rule when used exclusively for access to industrial or commercial properties outside of climate-friendly areas or Metro Region 2040 centers, and where plans do not allow residential or mixed-use development.

(g) Transportation system plans need not include the specific location of all planned local streets but must describe areas where they will be necessary.

(3) Cities and counties shall plan collector streets to provide access to property and collect and distribute traffic between local streets and arterials. Cities and counties must plan and design a collector street network that is complete

and connected with local streets and arterials.

(a) Cities and counties must plan for multimodal travel on collector streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.

(b) Cities and counties must plan collectors in climate-friendly areas and Metro Region 2040 centers to prioritize pedestrian, bicycle, and public transportation systems.

(4) Cities and counties shall plan arterial streets and highways to provide travel between neighborhoods and across urban areas. Cities and counties must plan an arterial street network that is complete and connected with local streets and collectors.

(a) Cities and counties shall designate each segment of an arterial as one of the three categories below in the transportation system plan. These designations must be made considering the intended function, the land use context, and the expected users of the facility. Cities and counties must address these considerations to ensure local plans include different street standards for each category of arterial segment.

(A) Cities and counties shall plan for local access priority arterial segments to prioritize access to property and connected streets when balancing needs on the facility. Local access priority arterial segments will generally allow for more access locations from property, more opportunities to make turns, more frequent intersections with other streets, and slower speeds.

(B) Cities and counties shall plan for through movement priority arterial segments to prioritize through movement of traffic when balancing needs on the facility. Through movement priority arterial segments will generally prioritize access limited to intersections with the street network, limited access to individual properties, and safe speeds.

(C) Cities and counties shall plan for arterial segments in a climate-friendly area to prioritize multimodal travel as provided in subsection (b). This includes prioritizing complete, connected, and safe pedestrian, bicycle, and public transportation facilities.

(b) Cities and counties shall plan for multimodal travel on or along arterial streets as provided in OAR 660-012-0510, OAR 660-012-0610, and OAR 660-012-0710.

(A) Cities and counties shall plan arterials in climate-friendly areas to prioritize pedestrian, bicycle, and public transportation systems.

(B) Cities and counties shall plan arterials along transit priority corridors to prioritize transit service reliability and frequency over general-purpose traffic.

(5) Cities and counties shall carefully consider new or expanded freeways considering goals for reductions in vehicle miles traveled per capita.

(a) Cities and counties shall consider high-occupancy vehicle lanes, including transit lanes, and managed priced lanes on freeways.

(b) Pedestrian and bicycle facilities should be parallel to freeways, rather than on them. Transit facilities on or along freeways must be designed for direct transit vehicle access.

(6) Notwithstanding other provisions of this rule, where appropriate, cities and counties shall plan and design streets and highways to accommodate:

(a) Transit vehicles on a segment of a priority transit corridor or transit corridor without dedicated transit lanes or transitway.

(b) Freight travel on designated freight routes and key freight terminals inventoried as provided in OAR 660-012-0805.

(c) Agricultural equipment on streets or highways connecting to agriculturally zoned land used for agricultural purposes where equipment access is necessary.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 368.039

ADOPT: 660-012-0820

REPEAL: Temporary 660-012-0820 from LCDD 2-2022

RULE TITLE: Street and Highway Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments in metropolitan areas develop a list of street and highway system projects in a transportation system plan.

RULE TEXT:

- (1) Cities and counties shall develop a list of street and highway system projects that would address the gaps and deficiencies in the street and highway system.
- (2) Cities and counties shall develop street and highway project prioritization factors that are able to sort the list of street and highway system projects into a prioritized list of street and highway system projects. Cities must develop street and highway project prioritization factors by engaging underserved populations as provided in OAR 660-012-0130.
- (3) Cities and counties shall use the following factors when prioritizing street and highway system projects:
 - (a) Street and highway investments that reallocate right-of-way from facilities dedicated to moving motor vehicles to those for use by the pedestrian, bicycle, and public transportation systems, particularly:
 - (A) In climate-friendly areas and Metro Region 2040 centers;
 - (B) In areas with concentrations of underserved populations; and
 - (C) In areas with reported serious injuries and deaths.
 - (b) Street and highway system investments that will fill gaps in the existing street network;
 - (c) Street and highway system investments consistent with the prioritization factors in OAR 660-012-0155;
 - (d) Street and highway system investments that will help meet the performance targets set as provided in OAR 660-012-0910; and
 - (e) Street and highway system investments consistent with a scenario plan approved by order as provided in OAR 660-044-0120.
- (4) The transportation system plan must include a description of the prioritization factors and method of prioritizing street and highway projects used to develop the prioritized list of street and highway system projects.
- (5) Cities or counties choosing to include a proposed facility requiring authorization as provided in OAR 660-012-0830 in the transportation system plan must first meet the requirements provided in OAR 660-012-0830.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712

ADOPT: 660-012-0830

REPEAL: Temporary 660-012-0830 from LCDD 2-2022

RULE TITLE: Enhanced Review of Select Roadway Projects

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how local governments must review and authorize certain street and highway projects before adding them to a local transportation system plan.

RULE TEXT:

(1) Cities and counties shall review and may authorize certain proposed facilities to be included as a planned project or unconstrained project in any part of the local comprehensive plan, including the transportation system plan.

(a) The following types of proposed facilities must be reviewed as provided in this rule:

(A) A new or extended arterial street, highway, freeway, or bridge carrying general purpose vehicle traffic;

(B) New or expanded interchanges;

(C) An increase in the number of general purpose travel lanes for any existing arterial or collector street, highway, or freeway; and

(D) New or extended auxiliary lanes with a total length of one-half mile or more. Auxiliary lane means the portion of the roadway adjoining the traveled way for speed change, turning, weaving, truck climbing, maneuvering of entering and leaving traffic, and other purposes supplementary to through-traffic movement.

(b) Notwithstanding any provision in subsection (a), the following proposed facilities need not be reviewed or authorized as provided in this rule:

(A) Changes expected to have a capital cost of less than \$5 million;

(B) Changes that reallocate or dedicate right of way to provide more space for pedestrian, bicycle, transit, or high-occupancy vehicle facilities;

(C) Facilities with no more than one general purpose travel lane in each direction, with or without one turn lane;

(D) Changes to intersections that do not increase the number of lanes, including implementation of a roundabout;

(E) Access management, including the addition or extension of medians;

(F) Modifications necessary to address safety needs; or

(G) Operational changes, including changes to signals, signage, striping, surfacing, or intelligent transportation systems.

(c) To retain a proposed facility that is included in an existing acknowledged plan adopted as provided in OAR 660-012-0015, a city or county shall review that facility under this rule at the time of a major update to its transportation system plan.

(2) Cities and counties choosing to authorize a proposed facility as provided in this rule shall:

(a) Initiate the authorization process through action of the governing body of the city or county;

(b) Include the authorization process as part of an update to a transportation system plan to meet the requirements as provided in OAR 660-012-0100, or have an existing acknowledged transportation system plan meeting these requirements;

(c) Have met all applicable reporting requirements as provided in OAR 660-012-0900;

(d) Designate the project limits and characteristics of the proposed facility, including length, number of lanes, or other key features;

(e) Designate a facility impact area and determine affected jurisdictions as provided in section (3);

(f) Conduct an engagement-focused equity analysis of the proposed facility as provided in OAR 660-012-0135;

(g) Develop a public involvement strategy as provided in section (4);

(h) Conduct an alternatives review as provided in sections (5) and (6);

(i) Choose to move forward with an authorization report as provided in section (7);

(j) Complete an authorization report as provided in section (8); and

(k) Publish the authorization report as provided in section (9).

(3) A city or county designating a facility impact area and determining affected jurisdictions shall:

- (a) Coordinate with all cities and counties with planning jurisdictions within two miles of the limits of the proposed facility to determine the extent of the facility impact area;
 - (b) Review the extent of the impact of the proposed facility by including all areas where implementation of the proposed facility is expected to change levels or patterns of traffic or otherwise change the transportation system or land use development patterns;
 - (c) Take particular care when reviewing the facility impact area in places with concentrations of underserved populations. The city or county must consider the special impact of new facilities in the context of historic patterns of discrimination, disinvestment, and harmful investments;
 - (d) Designate a facility impact area to include, at minimum, areas within one mile of the proposed facility; and
 - (e) Determine affected jurisdictions by including all cities or counties with planning jurisdictions in the designated facility impact area.
- (4) A city or county developing a public involvement strategy shall, in coordination with affected jurisdictions:
- (a) Develop the public involvement strategy as provided in OAR 660-012-0130.
 - (b) Require that the public involvement strategy provides for opportunities for meaningful public participation in decision-making over the course of the authorization process;
 - (c) Require that the public involvement strategy includes regular reports to the affected governing bodies, planning commissions, and the public on the progress of the authorization process; and
 - (d) Coordinate the public involvement strategy with other public involvement activities that may be concurrent, including updates to a transportation system plan or authorizations for other proposed facilities.
- (5) A city or county choosing to undertake an alternatives review shall, in coordination with affected jurisdictions:
- (a) Have designated the facility impact area, determined affected jurisdictions, transit service providers, and transportation options providers; and developed a public consultation strategy as provided in this rule;
 - (b) Develop a summary of the expected impacts of the proposed facility on underserved populations identified as provided in OAR 660-012-0125, particularly, but not exclusively, in neighborhoods with concentrations of underserved populations. These impacts must include, but are not limited to, additional household costs, and changes in the ability to access jobs and services without the use of a motor vehicle;
 - (c) Develop a summary of the estimated additional motor vehicle travel per capita that is expected to be induced by implementation of the proposed facility over the first 20 years of service, using best available science;
 - (d) Investigate alternatives to the proposed facility, as provided in subsections (e) through (h). Cities and counties must use a planning level of analysis, and make use of existing plans and available data as much as practical;
 - (e) Investigate alternatives to the proposed facility through investments in the pedestrian and bicycle systems. The city or county must:
 - (A) Review the transportation system plan for identified gaps and deficiencies in pedestrian and bicycle facilities within the facility impact area;
 - (B) Determine how much of the need for the proposed facility may be met through enhanced investments in the pedestrian and bicycle networks;
 - (C) Identify pedestrian and bicycle system investments that could contribute to meeting the identified need which do not require implementation of the proposed facility; and
 - (D) Identify pedestrian and bicycle system investments that could contribute to meeting the identified need which may be implemented without the proposed facility, and may be retained if the proposed facility is implemented.
 - (f) Investigate alternatives to the proposed facility through investments in the public transportation system. The city or county must:
 - (A) Review the transportation system plan for identified gaps and deficiencies in public transportation facilities and services within the facility impact area;
 - (B) Coordinate with transit service providers to identify opportunities for providing additional transit service within or to the facility impact area; and
 - (C) Identify potential transit facility and service investments that contribute to meeting the identified need which may

be implemented without the proposed facility.

(g) Investigate alternatives to the proposed facility through investments in transportation options programs; or other means to reduce demand for motor vehicle travel. The city or county must:

- (A) Review the transportation system plan for identified existing and needed transportation demand management services within the facility impact area;
 - (B) Coordinate with transportation options providers to identify opportunities for providing transportation demand management services in and around the facility impact area; and
 - (C) Identify potential transportation options program investments that contribute to meeting the identified need which may be implemented without the proposed facility.
- (h) Investigate alternatives to the proposed facility that include system pricing. The city or county must:
- (A) Determine if various types of pricing could substantially reduce the need for the proposed facility;
 - (B) Investigate a range of pricing methods appropriate for the facility type and need, which may include, but are not limited to: parking pricing, tolling, facility pricing, cordon pricing, or congestion pricing; and
 - (C) Identify pricing methods where it is reasonably expected to meet the need for the facility, may reasonably be implemented, and can be expected to generate sufficient revenue to cover the costs of operating the collection apparatus.

(6) A city or county completing an alternatives review must, in coordination with affected jurisdictions:

- (a) Review the projects identified in section (5) to determine sets of investments that may be made that could substantially meet the need for the proposed facility without implementation of the proposed facility. A city or county must consider adopted state, regional, and local targets for reduction of vehicle miles traveled to reduce greenhouse gas emissions when making determinations of substantially meeting the need for the proposed facility; and
- (b) Complete an alternatives review report upon completion of the alternatives review phase. The alternatives review report must include a description of the effectiveness of identified alternatives. The alternatives review report must include the summaries developed in subsections (5)(b) and (c). The alternatives review report must be provided to the public, and the governing bodies and planning commissions of each affected city or county. The alternatives review report must also be included in the next annual report to the director as provided in OAR 660-012-0900.

(7) The governing body of the city or county shall review the alternatives review report and may either:

- (a) Select a set of investments reviewed in the alternatives review report intended to substantially meet the identified need for the proposed facility. These investments may be added to the unconstrained project list of the transportation system plan as provided in OAR 660-012-0170; or
- (b) Choose to complete the authorization report for the proposed facility, as provided in section (8).

(8) A city or county choosing to complete an authorization report as provided in section (7) shall, after completion of the alternatives review, include the following within the authorization report:

- (a) A record of the initiation of the authorization process by the governing body;
- (b) The public involvement strategy developed as provided in section (4), and how each part of the public involvement strategy was met;
- (c) The alternatives review report;
- (d) A summary of the estimated additional long-term costs of maintaining the proposed facility, including expected funding sources and responsible transportation facility operator.

(9) A city or county shall publish the authorization report upon completion and provide it to the public and governing bodies of each affected jurisdiction.

(10) A city or county, having completed and published an authorization report, may place the proposed project on the list of street and highway system projects with other projects as provided in OAR 660-012-0820. A proposed project authorized as provided in this rule may remain on a project list in the transportation system plan as long there are no significant changes to the proposed project or the land use context as described in the authorization report.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0900

REPEAL: Temporary 660-012-0900 from LCDD 2-2022

RULE TITLE: Reporting

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for local governments in metropolitan areas to regularly report on progress toward meeting requirements in divisions 12 and 44.

RULE TEXT:

- (1) Cities and counties outside of the planning area of Metro shall report annually on progress toward meeting the requirements in division 44 and this division.
- (2) Metro shall prepare a report annually on progress toward meeting the requirements in division 44 and this division. Cities and counties within the planning area of Metro shall coordinate with Metro and provide information to Metro. Cities and counties within the planning area of Metro are not required to report directly to the department as provided in this rule.
- (3) Cities, counties, and Metro shall submit the report to the director no later than May 31 of each year for the report for the previous calendar year.
- (4) The director shall provide for a method of submission. The director shall review reports as provided in OAR 660-012-0915.
- (5) Cities, counties, and Metro shall submit either a minor report, as provided in section (6), or a major report, as provided in section (7), each year.
 - (a) Minor reports shall be submitted each year where a major report is not submitted.
 - (b) Major reports shall be submitted for each year that the metropolitan planning organization representing the city or county approved a regional transportation plan as provided in 23 CFR § 450.324.
 - (6) A minor report must include the following information:
 - (a) A narrative summary of the state of coordinated land use and transportation planning in the planning area over the reporting year, including any relevant activities or projects undertaken or planned by the city or county;
 - (b) The planning horizon date of the acknowledged transportation system plan, a summary of any amendments made to the transportation system plan over the reporting year, and a forecast of planning activities over the near future that may include amendments to the transportation system plan;
 - (c) Copies of reports made in the reporting year for progress towards centering the voices of underserved populations in processes at all levels of decision-making as provided in OAR 660-012-0130 and a summary of any equity analyses conducted as provided in OAR 660-012-0135; and
 - (d) Any alternatives reviews undertaken as provided in OAR 660-012-0830, including those underway or completed.
 - (7) A major report must include the following information:
 - (a) All information required in a minor report as provided in section (6);
 - (b) For reporting cities and counties:
 - (A) A description of what immediate actions the city or county has considered to be taken to reduce greenhouse gas emissions as provided in ORS 184.899(2); and
 - (B) A description of the consultations with the metropolitan planning organization on how the regional transportation plan could be altered to reduce greenhouse gas emissions as provided in ORS 184.899(2).
 - (c) Reporting for each regional and local performance measures as provided in OAR 660-012-0905 or OAR 660-044-0110 including:
 - (A) Baseline data;
 - (B) Baseline projections of expected outcomes from acknowledged plans;
 - (C) An assessment of whether the city, county, or Metro has met or is on track to meet each performance target for each reporting year between the base year and planning horizon year set as provided in OAR 660-012-0910;
 - (D) For any performance targets that were not met, a proposal for the corrective actions that will be taken to meet the

performance target by the next major report;

(E) An assessment of whether the reporting city or county has adopted local amendments to implement the approved land use and transportation scenario plan as provided in OAR 660-044-0130;

(F) For any amendments to implement the approved land use and transportation scenario plan as provided in OAR 660-044-0130 that have not yet been adopted, a proposal for the corrective actions that will be taken to adopt the amendments; and

(G) The status of any corrective actions identified in prior reports.

(8) Upon a written request for an exemption submitted to the department prior to the due date of a report, the director may grant a city or county an exemption to a requirement to include any required element of a report under sections (6) or (7) when the director determines that the requestor has established that collection and reporting of the information would not be possible or would place an undue burden on the city or county.

(9) Counties need only report for those portions of the county within an urban growth boundary inside the metropolitan area. A county may jointly report with a city for the entire urban growth area of the city.

(10) Reports as provided by this rule are not land use decisions.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.301, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0905

REPEAL: Temporary 660-012-0905 from LCDD 2-2022

RULE TITLE: Land Use and Transportation Performance Measures

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for a minimum set of transportation performance measures for local governments in metropolitan areas.

RULE TEXT:

- (1) Cities, counties, and Metro that have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0050 or OAR 660-044-0120 shall report on the performance measures from the approved regional scenario plan.
- (2) Cities and counties that do not have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0120 shall report on the specific actions, including capital improvements and the adoption of policies or programs that they have or will undertake to reduce pollution and increase equitable outcomes for underserved populations. At a minimum, this report must include the following performance measures:
 - (a) Compact Mixed-use Development
 - (A) Number of publicly supported affordable housing units in climate-friendly areas.
 - (B) Number of existing and permitted dwelling units in climate-friendly areas and percentage of existing and permitted dwelling units in climate-friendly areas relative to total number of existing and permitted dwelling units in the jurisdiction.
 - (C) Share of retail and service jobs in climate-friendly areas relative to retail and service jobs in the jurisdiction.
 - (b) Active Transportation
 - (A) Percent of collector and arterials streets in climate-friendly areas and underserved population neighborhoods with bicycle and pedestrian facilities with Level of Traffic Stress 1 or 2.
 - (B) Percent of collector and arterial roadways in climate-friendly areas and underserved population neighborhoods with safe and convenient marked pedestrian crossings.
 - (C) Percent of transit stops with safe pedestrian crossings within 100 feet.
 - (c) Transportation Options
 - (A) Number of employees covered by an Employee Commute Options Program.
 - (B) Number of households engaged with Transportation Options activities.
 - (C) Percent of all Transportation Options activities that were focused on underserved population communities.
 - (d) Transit
 - (A) Share of households within one-half mile of a priority transit corridor.
 - (B) Share of low-income households within one-half mile of a priority transit corridor.
 - (C) Share of key destinations within one-half mile of a priority transit corridor.
 - (e) Parking Costs and Management: Average daily public parking fees in climate-friendly areas.
 - (f) Transportation System
 - (A) Vehicle miles traveled per capita.
 - (B) Percent of jurisdiction transportation budget spent in climate-friendly areas and underserved population neighborhoods.
 - (C) Share of investments that support modes of transportation with low pollution.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0910

REPEAL: Temporary 660-012-0910 from LCDD 2-2022

RULE TITLE: Land Use and Transportation Performance Targets

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how targets are set against transportation performance standards for local governments in metropolitan areas.

RULE TEXT:

- (1) Cities and counties must set performance targets for each reporting year for each performance measure provided in OAR 660-044-0110 and OAR 660-012-0905 in their local transportation system plan. Performance targets for the performance measures provided in OAR 660-012-0905 must be set at levels that are reasonably likely to achieve the regional performance targets from an approved land use and transportation scenario plan as provided in OAR 660-044-0110 or the regional performance targets from the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission.
- (2) Cities and counties that have a land use and transportation scenario approved by the commission as provided in OAR 660-044-0120 must set targets for equity performance measures in a transportation system plan as provided in OAR 660-044-0110(9)(c).
- (3) Cities and counties shall set performance targets in any major update to their transportation system plan as provided in OAR 660-012-0105. If a city or county has not yet set targets and is submitting a major report as provided in OAR 660-012-0900(7), then the city or county shall set performance targets through a minor update to their transportation system plan.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.712, ORS 468A.205

ADOPT: 660-012-0915

REPEAL: Temporary 660-012-0915 from LCDD 2-2022

RULE TITLE: Review of Reports

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for how regular reports are reviewed by the department.

RULE TEXT:

(1) Upon receipt of a submitted minor report as provided in OAR 660-012-0900(6):

(a) The director shall make a preliminary determination of completeness within 30 calendar days of receipt and shall notify the submitter of any missing items required under OAR 660-012-0900(6) that is not subject to an exemption under OAR 660-012-0900(8).

(b) The submitter must submit information to the department within 30 days of the director's notification under subsection (a), unless the submitter requests, and the director grants, an extension of time to submit the missing information, for a period not to exceed 90 additional days.

(c) If the submitter does not submit the missing information within the time allotted by the director, the director may refer the report for a compliance hearing as provided in OAR 660-012-0920.

(d) Once a minor report submitted as provided in OAR 660-012-0900(6) is determined to be complete, the director shall post the minor report on the department website and send notice of approval to the submitter.

(2) Upon receipt of a submitted major report as provided in OAR 660-012-0900(7):

(a) The director shall make a preliminary determination of completeness within 30 calendar days of receipt and shall notify the submitter of any missing items required under OAR 660-012-0900(7) that is not subject to an exemption under OAR 660-012-0900(8).

(b) The submitter must submit information to the department within 30 days of the director's notification under subsection (a), unless the submitter requests, and the director grants, an extension of time to submit the missing information, for a period not to exceed 90 additional days. If the submitter does not submit additional information, the director shall proceed with review of the submission as provided in sections (3) and (4).

(c) If the director does not notify the submitter of missing items within 30 days of submittal, the director shall proceed with review of the submission as provided in sections (3) and (4).

(3) Upon completion of the process in section (2), the director shall:

(a) Post a complete copy of the major report on the department's website along with the alternative findings the director may make in section (4), and a statement that any person may file a written comment regarding the submitted report no more than 21 days after the posting of the report.

(b) Provide notice to persons described under ORS 197.615(3)(a), directing them to the posting described in subsection (a) and informing them that they may file a written comment regarding the submitted report no more than 21 days after the posting of the report.

(4) Within 60 days of completion of the process in section (2), the director shall:

(a) Find that the submitter has met the performance targets set as provided in OAR 660-012-0910, and has adopted local amendments to implement any approved land use and transportation scenario plan as provided in OAR 660-044-0130;

(b) Find that the submitter has proposed adequate corrective actions to address any performance targets that were not met and adequate to meet any performance targets set as provided in OAR 660-012-0910;

(c) Find that the submitter has not met a performance target set as provided in OAR 660-012-0910 and has proposed inadequate corrective actions; or

(d) Find that the submitter has not implemented an approved land use and transportation scenario plan as provided in OAR 660-044-0130 and proposed inadequate corrective actions.

(5) If the director makes findings described in subsections (4)(a) or (b);

(a) The director shall issue an order approving the report. The department shall post an approval order on a public

website and send notice to the submitter, and persons who provided written comment under section (3). The order must include information on the process to appeal the director's order as described in this rule.

(b) A person who has provided written comment under section (3) may appeal the director's order to the commission. An appeal is valid only if the appeal clearly identifies a deficiency in the submitted report based on the requirements of this division on issues raised in the written comments.

(c) The director shall determine if the appeal filed is valid, and the director's determination of validity is final.

(d) If no valid appeals are filed in response to the director's order, the order is final.

(e) If any valid appeals are filed in response to the director's order, then the director shall refer the report for a compliance hearing as provided in OAR 660-012-0920.

(6) If the director makes findings described in subsections (4)(c) or (d), then the director shall refer the report for a compliance hearing as provided in OAR 660-012-0920.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 197.012, ORS 197.615, ORS 197.712

ADOPT: 660-012-0920

REPEAL: Temporary 660-012-0920 from LCDD 2-2022

RULE TITLE: Compliance Hearings

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides for compliance hearings held by the commission.

RULE TEXT:

- (1) The commission shall hold a compliance hearing in response to referral from the director at its next regularly scheduled meeting that is at least 30 days after the referral.
- (2) The commission may hold a compliance hearing on its own motion or in response to an allegation that a city, county, or Metro has:
 - (a) Missed a deadline in this division;
 - (b) Missed a deadline in OAR 660-044-0015;
 - (c) Failed to implement corrective actions required by this division; or
 - (d) Failed to comply with a requirement in this division.
- (3) The department shall post notice of a compliance hearing on a public website and send notice to the parties.
- (4) At the compliance hearing the commission shall:
 - (a) Consider the director's written and oral report; and
 - (b) Consider oral testimony and written testimony provided at least 14 days prior to the hearing from a city, a county, or Metro and any persons who provided written comment as provided in OAR 660-012-0915(3)(b).
- (5) The commission may evaluate the compliance of the cities and counties within a metropolitan area in a collective evaluation, or the commission may evaluate the compliance of an individual city or county separately.
- (6) If the commission finds that a report meets the requirements of this division, or that the city, county, or Metro is in compliance with the requirements of this division, then the commission shall issue an order of approval.
- (7) If the commission finds a city, a county, or Metro out of compliance with the requirements of this division, the commission may use any authority granted to commission, including but not limited to the actions below.
 - (a) Issue an order to remand a report with specific directions for changes necessary to comply with this division;
 - (b) Issue an enforcement order as provided in ORS 197.319 through 197.335;
 - (c) Issue an order to invalidate the acknowledgement of local transportation system plans that are not consistent with an approved Land use and Transportation Scenario Plan; and
 - (d) Provide notice to the Oregon Department of Transportation and the United States Department of Transportation of the lack of compliance with state planning requirements.
- (8) The director shall mail the order to all parties.
- (9) A commission order under this rule may be reviewed as provided in ORS 183.484 for orders in other than a contested case. Reports and orders as provided in this rule are not land use decisions.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 183.484, ORS 197.012, ORS 197.319-ORS 197.335, ORS 197.712

AMEND: 660-044-0000

REPEAL: Temporary 660-044-0000 from LCDD 2-2022

RULE TITLE: Purpose

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to update the purpose statement for the division.

RULE TEXT:

(1) This division implements Oregon Land Use Planning Goal 12 (Transportation) and the state goal in ORS 468A.205 to reduce greenhouse gas emissions. The purpose of this division is to significantly, and as rapidly as possible, reduce climate pollutants that are causing climate disruption.

(2) Cities, counties, metropolitan planning organizations, and the Metropolitan Service District serving the Portland metro area (Metro) are encouraged to take actions beyond the minimum requirements of this division to rapidly make large reductions in pollution.

(3) This division requires cities, counties, and Metro to change transportation and land use plans to significantly reduce pollution from light vehicles. This division places specific requirements on Metro in recognition of its unique status in Oregon. This division also requires cities and counties within other metropolitan regions to work together to prepare a preferred land use and transportation scenario that describes a future set of desired transportation facilities, alternative future land use patterns, and policies that will reduce greenhouse gas pollution from light vehicles. This division requires the cities and counties within a metropolitan area to prepare a transportation and land use scenario plan that defines and implements a preferred scenario, identifies performance measures for tracking progress, and works to not only avoid or mitigate any impacts to underserved populations, but to improve outcomes for these communities over time.

(4) This division aims to reduce inequities for underserved populations. The land use and transportation scenario planning process and the local implementation process must prioritize underserved populations so that the actions that reduce pollution also reduce the historic inequities from prior transportation and land use development.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch 865 OL 2009 (HB 2001) § 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) § 5

STATUTES/OTHER IMPLEMENTED: Ch 865 OL 2009 (HB 2001) § 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) § 5

AMEND: 660-044-0005

REPEAL: Temporary 660-044-0005 from LCDD 2-2022

RULE TITLE: Definitions

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: Changes to some definitions and addition of some new definitions.

RULE TEXT:

For the purposes of this division, the definitions in ORS 197.015 and the statewide planning goals apply. In addition, the following definitions shall apply:

- (1) "Climate Friendly Area" has the meaning provided in OAR 660-012-0005(10).
- (2) "Community-based conversations" means accessible and inclusive community meetings held for areas with above-average concentrations of underserved community members.
- (3) "Design type" means the conceptual areas described in the Metro Growth Concept text and map in the Metro regional framework plan, including central city, regional centers, town centers, station communities, corridors, main streets, neighborhoods, industrial areas and employment areas.
- (4) "Equitable outcomes" has the meaning provided in OAR 660-012-0005(14).
- (5) "Framework plan" or "regional framework plan" means the plan adopted by Metro as defined by ORS 197.015(16).
- (6) "Functional plan" or "regional functional plan" means an ordinance adopted by Metro to implement the regional framework plan through city and county comprehensive plans and land use regulations.
- (7) "Greenhouse gas" has the meaning given in ORS 468A.210. Greenhouse gases are measured in terms of carbon dioxide equivalents, which means the quantity of a given greenhouse gas multiplied by a global warming potential factor consistent with a state-approved emissions reporting method.
- (8) "Greenhouse gas emissions reduction target" or "target" means a reduction from 2005 emission levels of per capita greenhouse gas emissions from travel in light vehicles. Targets are the reductions beyond reductions in emissions that are likely to result from the use of improved vehicle technologies and fuels. Travel in light vehicles includes all travel by members of households or university group quarters living within a metropolitan area regardless of where the travel occurs, and local commercial vehicle travel that is a function of household labor or demand regardless of where the travel occurs. Examples include commuting to work, going to school, going shopping, traveling for recreation, delivery vehicles, service vehicles, travel to business meetings, and travel to jobsites.
- (9) "Land use and transportation scenario planning" means the preparation and evaluation by local governments of two or more land use and transportation scenarios and the cooperative selection of a preferred land use and transportation scenario that accommodates planned population and employment growth while achieving a reduction in greenhouse gas emissions from light vehicle travel in the metropolitan area and an increase in equitable outcomes for underserved community members. Land use and transportation scenario planning may include preparation and evaluation of alternative scenarios that do not meet targets specified in this division.
- (10) "Light vehicles" means motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.
- (11) "Metro" means the metropolitan service district organized for the Portland metropolitan area under ORS chapter 268.
- (12) "Metropolitan planning area" or "metropolitan area" means lands within the planning area boundary of a metropolitan planning organization.
- (13) "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). The Longview-Kelso-Rainier metropolitan planning organization and the Walla Walla Valley metropolitan planning organization are not metropolitan planning organizations for the purposes of this division.
- (14) "Planning period" means the period of time over which the expected outcomes of a scenario plan are estimated, measured from a 2005 base year, to a future year that corresponds with greenhouse gas emission targets set forth in this division.

(15) "Preferred land use and transportation scenario" means a plan for a metropolitan area that achieves the targets for reducing greenhouse gas emissions set forth in OAR 660-044-0020 and 660-0440-0025 as provided in OAR 660-044-0040 and 660-044-0110.

(16) "Underserved Populations" has the meaning provided in OAR 660-012-0125(2).

(17) "Vehicle Miles Traveled" has the meaning provided in OAR 660-012-0005(59).

(18) "Statewide Transportation Strategy" means the statewide strategy adopted by the Oregon Transportation Commission as part of the state transportation policy to aid in achieving the greenhouse gas emissions reduction goals set forth in ORS 468A.205 as provided in Oregon Laws 2010, chapter 85, section 2.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch 865 OL 2009 (HB 2001) § 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) § 5

STATUTES/OTHER IMPLEMENTED: Ch 865 OL 2009 (HB 2001) § 37(6) and (8), Ch 85 OL 2010 Special Session (SB 1059) § 5

ADOPT: 660-044-0015

REPEAL: Temporary 660-044-0015 from LCDD 2-2022

RULE TITLE: Applicability - Compliance Schedule

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule that expands the scenario planning requirements to cities and counties beyond the Portland metropolitan area and provides compliance dates for conducting that work.

RULE TEXT:

(1) OAR 660-044-0000 through OAR 660-044-0020, OAR 660-044-030, and OAR 660-044-0040 through OAR 660-044-0060 of this division apply to Metro. OAR 660-044-0055 applies to the cities and counties within Metro.

(2) OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division apply to the cities and counties within the metropolitan planning area of the Central Lane Metropolitan Planning Organization as provided in subsections (a) and (b).

(a) These cities and counties must:

(A) Submit a work program containing all of the elements provided in OAR 660-044-0100 to the department for review under section (4) by June 30, 2023;

(B) Prepare a land use and transportation scenario plan as provided in OAR 660-044-0110 and submit it for review by the commission as provided in OAR 660-044-0120 by December 31, 2023 or another date in the approved work program;

(C) Adopt local amendments as provided in OAR 660-044-0130 by December 31, 2026, or other date in the approved work program.

(b) These cities and counties may use the preferred scenario submitted to the commission and legislature in 2015 as required by Oregon Laws 2010, chapter 865, as the basis for the land use and transportation scenario plan. If these cities and counties use the preferred scenario from 2015, then they:

(A) Are neither required to redo the prior work that produced the preferred scenario, nor comply with requirements of OAR 660-044-0110 specific to the preferred scenario.

(B) Are required to produce only the additional elements that build on the preferred scenario to prepare a complete transportation and land use scenario plan, as provided in OAR 660-044-0110(3) and 660-044-0110(9) through (10).

(3) OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division apply to the cities and counties within the metropolitan planning area of the Salem-Keizer Area Transportation Study. These cities and counties must:

(a) Submit a work program containing all of the elements provided in OAR 660-044-0100 to the department by June 30, 2023;

(b) Prepare a land use and transportation scenario plan as provided in OAR 660-044-0110 and submit it for review by the commission as provided in OAR 660-044-0120 by June 30, 2024, or another date in the approved work program; and

(c) Adopt local amendments as provided in OAR 660-044-0130 by June 30, 2025, or another date in the approved work program.

(4) Cities and counties may request, and the director or commission may approve, applying OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division to the cities and counties within a metropolitan area and establishing compliance schedule under the following procedures.

(a) Cities and counties within a metropolitan area may jointly submit a proposed work program or resubmit a revised work program as provided in OAR 660-044-0100.

(b) The department shall consult with the Oregon Department of Transportation to review a proposed work program. The director may approve the work program or refer the work program to the commission with recommended revisions.

(c) If the director refers a proposed work program to the commission under subsection (b), the commission shall hold a hearing to review the proposed work program and the recommended revisions. The commission may approve the work program based on OAR 660-044-0100 or remand the work program with required revisions.

(5) The commission may issue an order applying OAR 660-044-0000 through 660-044-0015, OAR 660-044-0025 through 660-044-0030, and OAR 660-044-0100 through 660-044-0130 of this division to cities and counties within a metropolitan area and establishing a compliance schedule using the procedures below.

(a) The department will provide the cities and counties a draft order with compliance schedule prior to a commission hearing.

(b) The commission will hold a hearing and consider any revised or alternate order proposed by cities or counties, and any public testimony.

(c) When considering whether to issue an order, the commission shall consider the following factors using the best available data:

(A) Greenhouse gas emissions including actual measurements, model estimates, recent trends, and future projections under current adopted plans;

(B) Local transportation and land use actions that influence greenhouse gas emissions and more equitable outcomes, including adopted plans, recent actions by cities and counties, and development trends;

(C) Population growth including recent trends and future projections;

(D) Presence or absence of regional cooperation on greenhouse gas emissions reduction;

(E) Vehicles miles traveled per capita in the metropolitan area, including actual measurements, model estimates, recent trends, and future projections under current adopted plans; and

(F) State and local funding available for scenario planning.

(6) The director may grant a whole or partial exemption from the requirements of this division to cities or counties outside of the Portland metropolitan area with a population of less than 5,000 within the metropolitan planning area. The director may also grant a temporary whole or partial exemption from the requirements of this division to jurisdictions of any size that are newly included in an existing metropolitan area or a newly designated metropolitan area.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 468A.205

AMEND: 660-044-0020

REPEAL: Temporary 660-044-0020 from LCDD 2-2022

RULE TITLE: Greenhouse Gas Emissions Reduction Target for the Portland Metropolitan Area

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes changes to existing rule extending horizon years for targets.

RULE TEXT:

(1) Metro shall use the greenhouse gas emissions reduction targets in this rule as it develops, reviews, and updates a land use and transportation scenario that accommodates planned population and employment growth while achieving a reduction in greenhouse gas emissions from light vehicle travel in the metropolitan area as required by OAR 660-044-0040 through 660-044-0060.

(2) This rule only applies to the Portland metropolitan area.

(3) The greenhouse gas emissions reduction target is a 20 percent reduction in the year 2035.

(4) Targets for the year 2040 and beyond are:

(a) By 2040, a 25 percent reduction.

(b) By 2041, a 26 percent reduction.

(c) By 2042, a 27 percent reduction.

(d) By 2043, a 28 percent reduction.

(e) By 2044, a 29 percent reduction.

(f) By 2045, a 30 percent reduction.

(g) By 2046, a 31 percent reduction.

(h) By 2047, a 32 percent reduction.

(i) By 2048, a 33 percent reduction.

(j) By 2049, a 34 percent reduction.

(k) By 2050 and beyond, a 35 percent reduction.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch. 865 OL 2009 (HB 2001) §37(6), Ch. 85 OL 2010 Special Session (SB 1059) §5

STATUTES/OTHER IMPLEMENTED: Ch. 865 OL 2009 (HBI 2001) §37(6), Ch. 85 OL 2010 Special Session (SBI 1059) §5

AMEND: 660-044-0025

REPEAL: Temporary 660-044-0025 from LCDD 2-2022

RULE TITLE: Greenhouse Gas Emissions Reduction Targets for Other Metropolitan Areas

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes changes to existing rule making targets mandatory and extending horizon years for targets.

RULE TEXT:

(1) Purpose and effect of targets: Local governments in metropolitan planning areas not covered by OAR 660-044-0020 shall use the targets set forth in section (2) of this rule as they conduct land use and transportation planning to reduce greenhouse gas emissions.

(2) Targets for the year 2040 and beyond are:

- (a) By 2040 or earlier, a 20 percent reduction.
- (b) By 2041, a 21 percent reduction.
- (c) By 2042, a 22 percent reduction.
- (d) By 2043, a 23 percent reduction.
- (e) By 2044, a 24 percent reduction.
- (f) By 2045, a 25 percent reduction.
- (g) By 2046, a 26 percent reduction.
- (h) By 2047, a 27 percent reduction.
- (i) By 2048, a 28 percent reduction.
- (j) By 2049, a 29 percent reduction.
- (k) By 2050 and beyond, a 30 percent reduction.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch. 865 OL 2009 (HB 2001) § 37(6), Ch. 85 OL 2010 Special Session (SB 1059) § 5

STATUTES/OTHER IMPLEMENTED: Ch. 865 OL 2009 (HBI 2001) § 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) § 5

AMEND: 660-044-0030

REPEAL: Temporary 660-044-0030 from LCDD 2-2022

RULE TITLE: Methods for Estimating Greenhouse Gas Emissions and Emissions Reductions

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes changes to existing rule clarifying connection between greenhouse gas targets and vehicle miles travelled per capita.

RULE TEXT:

(1) Applicability: When local governments within a metropolitan area are conducting land use and transportation planning to demonstrate that their plans would meet the greenhouse gas emissions reductions targets established in this division, then they shall use the provisions and options in this rule to project future emissions.

(2) Vehicle Miles Traveled: The greenhouse gas emissions reduction targets as provided in OAR 660-044-0020 and 660-044-0025 are the ratio of future year to base year vehicle miles traveled per capita after controlling for the effects of state and federal policies and other conditions on vehicles, fuels, and pricing.

(3) Projected Emission Rates: Projections of greenhouse gas emissions must use emission rates based on the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission that reflect the reductions likely to result by the use of improved vehicle technologies and fuels. Metropolitan area greenhouse gas target modeling efforts must rely on emission rates agreed to by the Oregon Department of Transportation and the department to ensure this compliance.

(4) Actions in the Statewide Transportation Strategy as adopted by the Oregon Transportation Commission:

Projections of greenhouse gas emissions may assume state actions specified in subsection (a) and may use the flexibility for local and regional actions described in subsection (b).

(a) State Actions: Projections of greenhouse gas emissions may include reductions projected to result from state actions, programs, and associated interactions up to, but not exceeding, the levels identified in the Statewide Transportation Strategy.

(b) Local and Regional Actions: Projections of greenhouse gas emissions may include local or regional actions similar to actions in the Statewide Transportation Strategy if the local or regional governments have authority to adopt plans or policies that would implement the actions. Local governments may use projections of greenhouse gas emissions that are lower than the rates based on the Statewide Transportation Strategy if local or regional programs or actions can be demonstrated to result in changes to vehicle fleet, technologies, or fuels above and beyond the assumption in the Statewide Transportation Strategy, or agreed to by the Oregon Department of Transportation and the department. One example would be a program to add public charging stations that is estimated to result in use of hybrid or electric vehicles greater than the statewide assumption in the Statewide Transportation Strategy.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch. 865 OL 2009 (HB 2001) § 37(6), Ch. 85 OL 2010 Special Session (SB 1059) § 5

STATUTES/OTHER IMPLEMENTED: Ch. 865 OL 2009 (HBI 2001) § 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) § 5

AMEND: 660-044-0035

REPEAL: Temporary 660-044-0035 from LCDD 2-2022

RULE TITLE: Review and Evaluation of Greenhouse Gas Reduction Targets

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: No substantive changes to existing rule. This rule provides for how the department review and evaluate the greenhouse gas targets in this division.

RULE TEXT:

(1) The commission shall by June 1, 2021, and at four-year intervals thereafter, conduct a review of the greenhouse gas emissions reduction targets in OAR 660-044-0020 and 660-044-0025.

(2) The review by the commission shall evaluate whether revisions to the targets established in this division are warranted considering the following factors:

(a) Results of land use and transportation scenario planning conducted within metropolitan planning areas to reduce greenhouse gas emissions from light vehicles;

(b) New or revised federal and state laws or programs established to reduce greenhouse gas emissions from light vehicles;

(c) State plans or policies establishing or allocating greenhouse gas emissions reduction goals to specific sectors or subsectors;

(d) Policies and recommendations in the Statewide Transportation Strategy adopted by the Oregon Transportation Commission;

(e) Additional studies or analysis conducted by the Oregon Department of Transportation, the Department of Environmental Quality, the Oregon Department of Energy or other agencies regarding greenhouse gas emissions from light vehicle travel, including but not limited to changes to vehicle technologies, fuels and the vehicle fleet;

(f) Changes in population growth rates, metropolitan planning area boundaries, land use or development patterns in metropolitan planning areas that affect light vehicle travel;

(g) Efforts by local governments in metropolitan areas to reduce greenhouse gas emissions from all sources;

(h) Input from affected local and regional governments and metropolitan planning organizations;

(i) Land use feasibility and economic studies regarding land use densities; and

(j) State funding and support for scenario planning and public engagement.

(3) The department shall, in consultation and collaboration with affected local governments, metropolitan planning organizations and other state agencies, prepare a report addressing factors listed in section (2) of this rule to aid the commission in determining whether revisions to targets established in this division are warranted.

STATUTORY/OTHER AUTHORITY: ORS 197.040, Ch. 865 OL 2009 (HB 2001) § 37(6), Ch. 85 OL 2010 Special Session (SB 1059) § 5

STATUTES/OTHER IMPLEMENTED: Ch. 865 OL 2009 (HBI 2001) § 37(6), Ch. 85 OL 2010 Special Session (SBI 1059) § 5

AMEND: 660-044-0040

REPEAL: Temporary 660-044-0040 from LCDD 2-2022

RULE TITLE: Cooperative Selection of a Preferred Scenario; Initial Adoption

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes changes to existing rule to support any future amendments needed to the preferred scenario in the Portland metropolitan area.

RULE TEXT:

- (1) Within one year of adoption or amendment of a preferred scenario, Metro shall amend the regional framework plan and the regional growth concept to select and incorporate a preferred land use and transportation scenario that meets targets in OAR 660-044-0020 consistent with the requirements of this division.
- (2) In preparing, selecting, or amending a preferred land use and transportation scenario Metro shall:
 - (a) Consult with affected local governments, representatives of underserved populations, the Port of Portland, TriMet, and the Oregon Department of Transportation;
 - (b) Consider adopted comprehensive plans and local aspirations for growth in developing and selecting a preferred land use and transportation scenario;
 - (c) Use assumptions about population, housing and employment growth consistent with the coordinated population and employment projections for the metropolitan area for the planning period;
 - (d) Use evaluation methods and analysis tools for estimating greenhouse gas emissions that are:
 - (A) Consistent with the provisions of this division;
 - (B) Reflect best available information and practices; and,
 - (C) Coordinated with the Oregon Department of Transportation.
 - (e) Make assumptions about state and federal policies and programs expected to be in effect over the planning period, including the Statewide Transportation Strategy, in coordination with the responsible state agencies;
 - (f) Evaluate a reference case scenario that reflects implementation of existing adopted comprehensive plans and transportation plans;
 - (g) Evaluate at least two alternative land use and transportation scenarios for meeting greenhouse gas reduction targets and identify types of amendments to comprehensive plans and land use regulations likely to be necessary to implement each alternative scenario;
 - (h) Develop and apply evaluation criteria that assess how alternative land use and transportation scenarios compare with the reference case in achieving important regional goals or outcomes;
 - (i) Evaluate if the preferred scenario relies on new investments or funding sources to achieve the target, the feasibility of the investments or funding sources including:
 - (A) A general estimate of the amount of additional funding needed;
 - (B) Identification of potential/likely funding mechanisms for key actions, including local or regional funding mechanisms;
 - (C) Coordination of estimates of potential state and federal funding sources with relevant state agencies (i.e. the Oregon Department of Transportation for transportation funding); and,
 - (D) Consider effects of alternative scenarios on development and travel patterns in the surrounding area (i.e. whether proposed policies will cause change in development or increased light vehicle travel between metropolitan area and surrounding communities compared to reference case).
- (3) The preferred land use and transportation scenario shall include:
 - (a) A description of the land use and transportation growth concept providing for land use design types;
 - (b) A concept map showing the land use design types;
 - (c) Policies and strategies intended to achieve the target reductions in greenhouse gas emissions in OAR 660-044-0020;
 - (d) Planning assumptions upon which the preferred scenario relies including:
 - (A) Assumptions about state and federal policies and programs;
 - (B) Assumptions about vehicle technology, fleet or fuels, if those are different than those provided in OAR 660-044-

0030;

(C) Assumptions or estimates of expected housing and employment growth by jurisdiction and land use design type; and
 (D) Assumptions about proposed regional programs or actions other than those that set requirements for city and county comprehensive plans and land use regulations, such as investments and incentives;

(e) Performance measures and targets to monitor and guide implementation of the preferred scenario. Performance measures and targets shall be related to key elements, actions and expected outcomes from the preferred scenario; and

(f) Recommendations for state or federal policies or actions to support the preferred scenario.

(4) When amending a local Transportation Systems Plan, or comprehensive plan, local governments shall adopt findings demonstrating that implementation of the preferred land use and transportation scenario meets the requirements of this division and can reasonably be expected to achieve the greenhouse gas emission reductions as set forth in the target in OAR 660-044-0020. The findings shall demonstrate how:

(a) The expected pattern of land use development in combination with land use and transportation policies, programs, actions set forth in the preferred scenario will result in levels of greenhouse gas emissions from light vehicle travel that achieve the target in OAR 660-044-0020;

(b) The preferred scenario advances equitable outcomes for underserved communities; and

(c) The preferred scenario is or will be made consistent with other applicable statewide planning goals or rules.

(5) Guidance on evaluation criteria and performance measures.

(a) The purpose of evaluation criteria referred to in subsection (2)(h) is to encourage Metro to select a preferred scenario that achieves greenhouse gas emissions reductions in a way that maximizes attainment of other community goals and benefits. This rule does not require the use of specific evaluation criteria. The following are examples of categories of evaluation criteria that Metro might use:

(A) Public health;

(B) Air quality;

(C) Household spending on energy or transportation;

(D) Implementation costs;

(E) Economic development;

(F) Access to parks and open space; and,

(G) Equity, specifically promoting equitable outcomes for underserved community members.

(b) The purpose of performance measures and targets referred to in subsection (3)(e) is to enable Metro and area local governments to monitor and assess whether key elements or actions that make up the preferred scenario are being implemented, and whether the preferred scenario is achieving the expected outcomes. This rule does not establish or require use of particular performance measures or targets. The following are examples of types of performance measures that Metro might establish:

(A) Transit service revenue hours;

(B) Mode share;

(C) People per acre by 2040 Growth Concept design type;

(D) Percent of workforce participating in employee commute options programs; and

(E) Percent of households and jobs within one-quarter mile of transit.

STATUTORY/OTHER AUTHORITY: ORS 197.040, 2009 OL Ch. 865 §37(8) (HB 2001)

STATUTES/OTHER IMPLEMENTED: 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0045

REPEAL: Temporary 660-044-0045 from LCDD 2-2022

RULE TITLE: Adoption of Regional Plans to Implement the Preferred Scenario

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: No substantive changes to existing rule. This rule provides guidance for how the preferred scenario is implemented in the Metro region

RULE TEXT:

- (1) Within one year of the commission's order approving Metro's amendments to the regional framework plan to select, incorporate, or amend a preferred land use and transportation scenario, Metro shall adopt regional functional plan amendments to implement the framework plan amendments.
- (2) Functional plan amendments shall establish requirements, deadlines, and compliance procedures for amendments to local comprehensive plans, transportation system plans, and land use regulations as necessary to implement the framework plan amendments. The functional plan amendments shall require affected cities and counties to adopt implementing amendments to comprehensive plans and land use regulations within two years of acknowledgement of Metro's functional plan amendments or by a later date specified in the adopted functional plan.
- (3) Functional plan amendments shall include requirements that local governments amend local comprehensive plans, transportation system plans, and land use regulations to:
 - (a) Use population, housing and employment allocations to specific areas and land use design types that are consistent with estimates in the framework plan including assumptions about densities, infill, and redevelopment;
 - (b) Apply comprehensive plan designations and zoning districts that are consistent with land use design type, allowing uses and densities that are consistent with land use design type and limiting uses that would be incompatible with the design type specified in the preferred scenario; and,
 - (c) Include other provisions needed to implement the amended framework plan.
- (4) As part of its adoption of functional plan amendments under this rule, Metro shall adopt findings demonstrating that actions required by the functional plan amendments are consistent with and adequate to implement the relevant portions of the preferred land use and transportation scenario set forth in the adopted framework plan amendments. The findings shall demonstrate that assumptions or allocations of housing and employment growth to specific areas are consistent with the estimates or assumptions in the framework plan amendments. In the event Metro's allocations or assumptions vary from those upon which the framework plan amendments are based, Metro shall demonstrate that the revised assumptions or allocations, in combination with other measures adopted as part of the functional plan will meet the greenhouse gas emission reduction target in OAR 660-044-0020.
- (5) Those portions of the preferred scenario in the framework plan that Metro chooses to implement by establishing requirements for city and county comprehensive plans and land use regulations shall be set forth in amendments to the functional plan. The amendments shall meet the following minimum planning standards:
 - (a) For adoption of amendments to the regional framework plan, the Metro Council shall follow the process set forth in the Metro Charter;
 - (b) For adoption of amendments to the functional plan, the Metro Council shall follow the process set forth in the Metro Charter for adoption of ordinances;
 - (c) The Metro Council shall strive for flexibility when establishing new requirements for cities and counties, and shall consider offering optional compliance paths to cities and counties, such as adoption of a model ordinance developed by Metro;
 - (d) Metro shall make new requirements for cities and counties included in the functional plan amendments adopted under this rule enforceable by Metro pursuant to ORS 268.390(6).
- (6) When it adopts an updated regional transportation system plan required by OAR chapter 660, division 12, Metro shall demonstrate that the updated plan is consistent with framework plan amendments adopting a preferred scenario as provided in OAR 660-044-0040(3).

STATUTORY/OTHER AUTHORITY: ORS 197.040, 2009 OL Ch. 865 §37(8) (HB 2001)

STATUTES/OTHER IMPLEMENTED: 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0050

REPEAL: Temporary 660-044-0050 from LCDD 2-2022

RULE TITLE: Commission Review of Regional Plans

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes minor changes to an existing rule that extends commission review to amendment of the regional plans in the Portland metropolitan area.

RULE TEXT:

- (1) The commission shall review Metro's framework plan amendments adopting or amending a preferred land use and transportation scenario and amendments to functional plans to implement the framework plan amendments in the manner provided for periodic review under ORS 197.628 to 197.650.
- (2) The commission's review of framework plan amendments adopting a preferred land use and transportation scenario shall determine whether the preferred scenario can reasonably be expected to achieve greenhouse gas emission reductions as set forth in the targets in OAR 660-044-0020, other requirements of this division, and any applicable statewide planning goals.
- (3) The commission's review of amendments to functional plans shall determine whether the adopted functional plans are consistent with and adequate to carry out relevant portions of the framework plan amendments.
- (4) The commission may conduct review of Metro's framework plan amendments adopting a preferred scenario in conjunction with review of an urban growth boundary amendment or an update to the regional transportation system plan.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.274(2), 2009 OL Ch. 865 §37(8) (HB 2001)

STATUTES/OTHER IMPLEMENTED: ORS 197.274(2), 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0055

REPEAL: Temporary 660-044-0055 from LCDD 2-2022

RULE TITLE: Adoption of Local Plans to Implement the Preferred Scenario

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: No substantive changes to existing rule. This rule that specifies a process for local governments in Metro to implement the preferred scenario.

RULE TEXT:

(1) Local governments shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with and implement relevant portions of the preferred land use and transportation scenario as set forth in Metro's functional plans or amendments. "Consistent" for the purpose of this section means city and county comprehensive plans and implementing ordinances, on the whole, conforms with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.

(2) Beginning one year from Metro's adoption or amendment of the preferred scenario, local governments in the Portland metropolitan area shall, in updating or adopting an amendment to a comprehensive plan or transportation system plan, demonstrate that the proposed update or amendment is consistent with the preferred land use and transportation scenario.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.274(2), 2009 OL Ch. 865 §37(8) (HB 2001)

STATUTES/OTHER IMPLEMENTED: ORS 197.274(2), 2009 OL Ch. 865 §37(8) (HB 2001)

AMEND: 660-044-0060

REPEAL: Temporary 660-044-0060 from LCDD 2-2022

RULE TITLE: Monitoring

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule makes minor changes to the monitoring and reporting of progress in implementing the preferred scenario in the Portland metropolitan area.

RULE TEXT:

- (1) Metro shall prepare a report monitoring progress in implementing the preferred scenario including status of performance measures and performance targets adopted as part of the preferred scenario as part of regular updates to the Regional Transportation Plan and preparation of Urban Growth Reports.
- (2) Metro's report shall assess whether the region is making satisfactory progress in implementing the preferred scenario; identify reasons for lack of progress, and identify possible corrective actions to make satisfactory progress. Metro may update and revise the preferred scenario as necessary to ensure that performance targets are being met.
- (3) The commission shall review the report and shall either find Metro is making satisfactory progress or provide recommendations for corrective actions to be considered or implemented by Metro prior to or as part of the next update of the preferred scenario.

STATUTORY/OTHER AUTHORITY: ORS 197.040, ORS 197.301, ORS 197.274(2), 2009 OL Ch. 865 § 37(8) (HB 2001)

STATUTES/OTHER IMPLEMENTED: ORS 197.301, 2009 OL Ch. 865 § 37(8) (HB 2001)

ADOPT: 660-044-0100

REPEAL: Temporary 660-044-0100 from LCDD 2-2022

RULE TITLE: Scenario Planning Work Programs

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule that creates the process for scenario planning in cities and counties beyond the Portland metropolitan area.

RULE TEXT:

As used in this division, a work program must include:

- (1) A proposed governance structure for regional cooperation: a proposed mechanism for regional cooperation. The governance structure may be an existing metropolitan planning organization, a new regional inter-governmental entity, an intergovernmental agreement for collaboration among local governments, or other mechanism. The governance structure must describe how the entity or entities will make decisions and complete tasks. The governance structure must, at a minimum, include cities and counties and describe how transit providers will be involved in the planning process.
- (2) A scope of work: A proposed list of tasks to develop scenarios, analyze scenarios, select a preferred scenario, assemble a land use and transportation scenario plan, and amend local plans and ordinances consistent with the land use and transportation scenario plan.
- (3) A community engagement plan: A community engagement plan with a focus on outreach to and inclusion of underserved populations including community-based conversations.
- (4) A funding estimate: A general estimate of needs for each city and county to adopt local amendments to implement the selected scenario. The funding estimate must include a schedule of requested amounts in current and future budget periods.
- (5) A schedule: The work program must include a proposed schedule for submitting the land use and transportation scenario plan and for adopting local amendments to implement the approved preferred land use and transportation scenario.
- (6) Cities and counties may submit a proposed work program to the department with alternative deadlines to those found in OAR 660-044-0015.
- (7) The department shall consult with the Oregon Department of Transportation to review the proposed work program. The director may approve the work program or refer the work program to the commission with recommended revisions.
- (8) If the director refers a proposed work program to the commission under section (7), the commission shall hold a hearing to review the proposed work program and the recommended revisions. The commission may approve the work program or remand the work program with required revisions.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 468A.205

ADOPT: 660-044-0110

REPEAL: Temporary 660-044-0110 from LCDD 2-2022

RULE TITLE: Land Use and Transportation Scenario Plan Contents

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule provides the required elements of a scenario plan for regions beyond the Portland metropolitan area and additional elements to implement the preferred scenario, to track progress and to report on the planning process.

RULE TEXT:

A land use and transportation scenario plan must include:

- (1) A planning period of at least 20 years in the future.
- (2) An assessment of the housing and transportation needs of underserved populations;
- (3) Policies and strategies intended to achieve the applicable greenhouse gas emissions reduction target in OAR 660-044-0025.
- (4) Planning assumptions used to develop the scenario including:
 - (a) Regionally significant projects reasonably likely to be funded through the planning period;
 - (b) Regionally significant projects that would require additional funding;
 - (c) General estimates of the amount of additional funding required; and
 - (d) Potential sources of additional funding.
- (5) Projections of land uses for the planning period including:
 - (a) Residential densities and locations;
 - (b) Employment densities and locations;
 - (c) Climate Friendly Areas as designated under OAR 660-012-0315; and
 - (d) Total regional population consistent with forecasts under OAR 660-032-0020.
- (6) Analysis of local development regulations to identify any changes needed to enable development of the projected land uses, such as:
 - (a) Comparison of zoning maps with projected land use needed to meet the target;
 - (b) Parking requirements; and
 - (c) Electric vehicle charging requirements.
- (7) Projection of future greenhouse gas emissions for the planning period using methods described in OAR 660-044-0030 using a preferred land use and transportation scenario to meet the applicable greenhouse gas reduction target in OAR 660-044-0025.
- (8) Assumptions used to project future greenhouse gas emissions including:
 - (a) Assumptions about state and federal policies and programs;
 - (b) Assumptions about vehicle technology, fleet or fuels, if those are different than those provided in OAR 660-044-0030; and
 - (c) Assumptions about proposed regional programs or actions such as investments and incentives not already included in the list of transportation projects and projections of future land uses.
- (9) Performance measures and methodologies that cities and counties will use to report on implementation of the preferred land use and transportation scenario, including:
 - (a) Regional performance measures to determine whether outcomes are progressing to achieve the projected reductions in greenhouse gas emissions. The regional performance measures must include actual performance for the data elements used to project greenhouse gas emissions as described in OAR 660-044-0030.
 - (b) Local implementation performance measures to determine whether cities and counties are taking the actions necessary to implement the preferred land use and transportation scenario.
 - (c) Equity performance measures to determine whether implementation of the preferred land use and transportation scenario is improving equitable outcomes for underserved communities.

(10) The performance measures in section (9) must include:

- (a) A set of performance measures including methods, details, and assumptions to calculate the value;
- (b) Baseline current data, or historical data, for each performance measure;
- (c) A reporting schedule repeating every four or five years through the planning period;
- (d) A target for each performance measure for each reporting point; and
- (e) Best available demographic information for underserved populations.

(11) Report on community-based conversations and other efforts to solicit input from underserved communities.

(12) An assessment of benefits and burdens of the scenario on underserved community members compared to the population as a whole.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 468A.205

ADOPT: 660-044-0120

REPEAL: Temporary 660-044-0120 from LCDD 2-2022

RULE TITLE: Commission Review of a Land Use and Transportation Scenario Plan

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule describes the review process for scenario plans in cities and counties beyond the Portland metropolitan area.

RULE TEXT:

- (1) Cities and counties shall submit a land use and transportation scenario plan to the director.
- (2) Upon receipt of a land use and transportation scenario plan, the director shall determine whether the submittal is complete based on the applicable criteria in this division.
 - (a) If there is any missing information, the director must inform the cities and counties with sufficient specificity to allow the cities and counties to provide missing information.
 - (A) The cities and counties must supply additional information within 30 days of the director's notification. If the cities and counties do not supply additional information, the director shall review the original submission as provided in subsection (b).
 - (B) If the director does not send a notice of missing information within 30 days of submittal, the submittal shall be deemed complete.
- (b) Upon completeness, the department shall:
 - (A) Post the complete land use and transportation scenario plan on the department's website; and
 - (B) Provide notice to persons described under ORS 197.615(3).
 - (C) The notice provided shall describe:
 - (i) How and where the land use and transportation scenario plan may be freely obtained; and
 - (ii) That objections to the land use and transportation scenario plan may be submitted to the department within 14 days of the notice.
 - (c) Review the submittal for compliance with this division and either:
 - (A) Issue an order approving the submittal, with responses to any objections submitted; or
 - (B) Refer the submittal to the commission for review and action under section (5).
 - (d) If the director does not issue an order approving the submittal or make a referral to the commission within 60 days of completeness, the submittal is deemed approved, and an order sent under section (3).
 - (3) The director shall send an approval order to the cities and counties, post on a public website using the Internet or a similar electronic method, and provide a copy of the order to the commission at its next regular meeting. The approval order must include information on the process to appeal the director's order as described in this rule.
 - (4) A person who has filed an objection may appeal a director's approval order to the commission. An appeal must be submitted within 30 days of the date of the commission meeting(s) at which the commission received the order. An appeal must clearly identify an alleged deficiency in the submittal based on the requirements of this division.
 - (5) The commission shall hold a hearing on a submittal referred by the director under section (2) or appealed under section (4).
 - (a) The commission will consider the contents of the land use and transportation scenario plan, the director's staff report, testimony from cities or counties that submitted the plan, and testimony from any persons who filed objections to the plan.
 - (b) The commission may:
 - (A) Remand the submittal with specific directions for needed changes consistent with the requirements of this division; or
 - (B) Approve the submittal.
 - (6) The director shall issue an order of the commission's decision to the cities and counties and to all participants in the hearing.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 468A.205

ADOPT: 660-044-0130

REPEAL: Temporary 660-044-0130 from LCDD 2-2022

RULE TITLE: Local Amendments to Implement Approved Land Use and Transportation Scenario Plan

NOTICE FILED DATE: 02/24/2022

RULE SUMMARY: This rule describes the process for local governments outside of the Portland metropolitan area to individually implement the regional scenario plan they jointly developed.

RULE TEXT:

(1) Local governments shall amend comprehensive plans, land use regulations, and transportation system plans to be consistent with and implement relevant portions of the land use and transportation scenario plan approved by an order under OAR 660-044-0120. "Consistent" for the purpose of this rule means city and county comprehensive plans and implementing ordinances, on the whole, conform to the purposes of the performance standards in the approved land use and transportation scenario plan.

(2) Cities and counties with an approved land use and transportation scenario plan under OAR 660-044-0120 may only adopt amendments to a comprehensive plan, land use regulation, or transportation system plan that are consistent with the approved land use and transportation scenario plan.

STATUTORY/OTHER AUTHORITY: ORS 197.040

STATUTES/OTHER IMPLEMENTED: ORS 184.899, ORS 197.012, ORS 197.615, ORS 468A.205