

The Oregon Administrative Rules contain OARs filed through April 14, 2006

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 8

INTERPRETATION OF GOAL 10 HOUSING

660-008-0000

Purpose

(1) The purpose of this rule is to assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs. This rule is intended to define standards for compliance with Goal 10 "Housing" and to implement ORS 197.303 through 197.307.

(2) OAR 660-007-0000 et seq., Metropolitan Housing, are intended to complement and be consistent with OAR 660-008-0000 et seq., Goal 10 Housing. Should differences in interpretation between OAR 660-008-0000 et seq. and 660-007-0000 et seq. arise, the provisions of OAR 660-007-0000 et seq. shall prevail for cities and counties within the Metro urban growth boundary.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - 197.314 & 197.475 - 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDD 3-2004, f. & cert. ef. 5-7-04

660-008-0005

Definitions

For the purpose of this rule, the definitions in ORS 197.015, 197.295, and 197.303 shall apply. In addition, the following definitions shall apply:

(1) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot.

(2) "Buildable Land" means residentially designated vacant and, at the option of the local jurisdiction, redevelopable land within the Metro urban growth boundary that is not severely constrained by natural hazards (Statewide Planning Goal 7) or subject to natural resource protection measures (Statewide Planning Goals 5 and 15). Publicly owned land is generally not considered available for residential use. Land with slopes of 25 percent or greater unless otherwise provided for at the time of acknowledgment and land within the 100-year floodplain is generally considered unbuildable for purposes of density calculations.

(3) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.

(4) "Government Assisted Housing" means housing that is financed in whole or part by either a federal or state housing agency or a local housing authority as defined in ORS 456.005 to 456.720, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

(5) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types and densities that will be:

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

(b) Consistent with any adopted regional housing standards, state statutes and Land Conservation and Development Commission administrative rules; and

(c) Consistent with Goal 14 requirements.

(6) "Manufactured Dwelling" means:

(a) Residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962;

(b) Mobile home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

(c) Manufactured home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction;

(d) Does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(7) "Manufactured Dwelling Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

"Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(8) "Manufactured Homes" means structures with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Sections 5401 et seq.), as amended on August 22, 1981.

(9) "Mobile Home Park" means any place where four or more manufactured dwellings as defined in ORS 446.003 are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(10) "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot.

(11) "Needed Housing" defined. Until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Subsections (11) (a) and (d) of this rule shall not apply to:

(A) A city with a population of less than 2,500;

(B) A county with a population of less than 15,000.

(12) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.

(13) "Suitable and Available Land" means residentially designated vacant and redevelopable land within an urban growth boundary that is not constrained by natural hazards, or subject to natural resource protection measures, and for which public facilities are planned or to which public facilities can be made available. Publicly owned land generally is not considered available for residential use.

Stat. Auth.: ORS 183, 196 & 197

Stats. Implemented: ORS 197.295 - 197.314 & 197.475 - 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDC 3-1990, f. & cert. ef. 6-6-90; LCDD 3-2004, f. & cert. ef. 5-7-04

660-008-0010

Allocation of Buildable Land

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.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

660-008-0015

Clear and Objective Approval Standards Required

Local approval standards, special conditions and procedures regulating the development of needed housing must be clear and objective, and must not have the effect, either of themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

660-008-0020

Specific Plan Designations Required

(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:

(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;

(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and

(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82; LCDD 5-1999, f. & cert. ef. 7-2-99

660-008-0025

The Rezoning Process

A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:

(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.

(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

660-008-0030

Regional Coordination

(1) Each local government shall consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.

(2) The local coordination body shall be responsible for ensuring that the regional housing impacts of restrictive or expansive local government programs are considered. The local coordination body shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

660-008-0035

Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)

(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:

(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;

(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and

(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.

(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II. The standards listed in section (1) of this rule shall not apply to the exceptions process authorized by OAR 660-007-0360.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

660-008-0040

Restrictions on Housing Tenure

Any local government that restricts the construction of either rental or owner occupied housing on or after its first periodic review shall include a determination of housing need according to tenure as part of the local housing needs projection.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.295 - ORS 197.314 & ORS 197.475 - ORS 197.490

Hist.: LCDC 3-1982, f. & ef. 7-21-82

Source: Oregon State Archives (http://arcweb.sos.state.or.us/rules/OARS_600/OAR_660/660_008.html)