

THE
COMPLETE
PLANNER'S
GUIDE TO

Periodic Review

- ❖ **Quick and easy guidance** on the when and how to update your comprehensive plan
- ❖ **Idiot-proof steps** for getting through all the hoops on the first try
- ❖ **Down to earth advice** on getting the most out of the process with the least pain



THE COMPLETE PLANNER'S GUIDE TO PERIODIC REVIEW

Table of Contents

1. Introduction	1
A. The Rules and Regulations	
B. A Word About Urban Growth Boundary Amendments	
C. Jargon and Acronyms	
2. .Who <i>Must</i> Complete Periodic Review, and Who <i>May</i>	3
A. Required Periodic Review	
B. Voluntary Periodic Review	
3. Commencing Periodic Review.....	5
A. Citizen Involvement	
B. Plan Evaluation	
C. Work Program	
D. Work Tasks	
4. Completing Periodic Review Tasks	10
A. A Word About Grants	
B. Work Program Amendments	
C. What if We're Not Done On Time?	
D. Submitting a Task	
E. Submitting Part of a Task	
F. Notice of the Final Decision	
G. Department Review of a Submittal for Completeness	
5. Review and Appeal of Tasks	16
A. Department Review	
B. Appeals	
Periodic Review Process flowchart.....	18

APPENDICES

- A. Relevant sections of ORS 197
- B. OAR Chapter 660, Division 25

EXHIBITS

- Sample task submittal form
- Sample notice of decision on a work task

Prepared by the
Oregon Department of Land Conservation and Development
October 2007

No rights reserved.
Feel free to copy and distribute.

THE COMPLETE PLANNER'S GUIDE TO PERIODIC REVIEW

I. INTRODUCTION

Periodic review is a process for certain local governments in Oregon to examine and, as necessary, update their comprehensive land use plan and implementing codes. The regulations on when and how to complete periodic review have changed several times over the years, and this guide is intended to address the current regulatory situation, after the 2005 Legislature adopted House Bill 3310.

A city or county can update its plan and code without periodic review. An amendment outside periodic review is generally called a “post-acknowledgment plan amendment” and is subject to different procedural requirements regarding notice and appeals. The relevant regulations for a post-acknowledgment plan amendment are found in ORS 197.610 to 197.615. These requirements are not discussed in this guide. Any appeal of a local decision on a post-acknowledgment plan amendment goes to the Land Use Board of Appeals, while LCDC is the hearings body for amendments made in periodic review (for more on periodic review appeals, see Chapter 5).

This guide is intended for local land use planners and is organized to provide step-by-step instructions for the various phases of periodic review. A simple flowchart of the periodic review process is provided on page 18. A clear distinction between requirements and tips is provided.

A. The Rules and Regulations

Periodic review requirements originate in statute: ORS 197.628 to 197.650. The statutes are interpreted and supplemented by administrative rules: OAR 660, Division 25. The entire provisions are included in the appendix, and relevant sections are quoted in the body of the guide. Recent changes to periodic review requirements are identified in the guide with a *.

The statutes and rules spell out the *procedural* aspects of completing periodic review, and identify the *substantive* issues that must be addressed. The periodic review regulations do not provide criteria for review of plan or code updates completed in periodic

review. Those criteria would be found in other statutes and rules, or in the statewide planning goals.

B. A Word About Urban Growth Boundary Amendments

ORS 197.626 says that certain urban growth boundary amendments are to be reviewed “in the manner of periodic review.” If a city with over 2,500 population changes its urban growth boundary by more than 50 acres, then it is treated like a periodic review task upon adoption. There is a similar provision for the Metro urban growth boundary. This will be addressed in more detail at appropriate places in the guide, and marked with a ♦.

C. Jargon and Acronyms

Some of the “planner speak” used in this guide is defined below.

DLCD – Department of Land Conservation and Development.
Sometimes just “the department.”

ERT – Economic Revitalization Team. An office in the Office of the Governor created by statute.

LCDC – Land Conservation and Development Commission, or just “the Commission.”

Metro – Metropolitan Service District. An elected regional government encompassing 25 cities and portions of Clackamas, Multnomah, and Washington counties.

MPO – Metropolitan Planning Organization. An organization formed by the Governor to coordinate transportation planning in major urban areas. In 2007, MPOs in Oregon include the urban areas around Bend, Corvallis, Eugene-Springfield, Medford, Portland and Salem-Keizer.

Periodic review rule – OAR 660, Division 25.

OAR – Oregon Administrative Rule. Regulations adopted by an administrative body, in the case of this guide the Land Conservation and Development Commission.

ORS – Oregon Revised Statute. The codified laws passed by the legislature.

UGB – Urban growth boundary. A line around Oregon cities separating urban from rural uses.

***2. WHO MUST COMPLETE PERIODIC REVIEW, AND WHO MAY**

Certain local governments are required to complete a scheduled update of their comprehensive plans. Others may request it.

A. Required Periodic Review

ORS 197.629 and OAR 660-025-0030 provide a “schedule” of which local governments must go through the periodic review process. The following are included:

- Cities over 2,500 population in the city limits inside Metro or a Metropolitan Planning Organization (MPO): begin seven years after completion of the previous periodic review, and
- Cities with over 10,000 population inside the UGB and outside Metro and an MPO: begin 10 years after completion of the previous periodic review.



Counties must complete periodic review for the area inside urban growth boundaries on the same schedule as the cities listed above.

That’s all. No other city or county is scheduled to complete periodic review. Under certain circumstances, the Commission may require other cities or counties to enter the process as long as they are willing to pay the local government’s costs (OAR 660-025-0035(4)).

The statute and rule provide for the Commission to schedule periodic review. A city does not automatically start periodic review when seven or ten years has passed; the Commission must set a schedule for when each jurisdiction is to begin (see Chapter 3 for discussion of periodic review notice). Conversely, the Commission may start periodic review early for a city, but no sooner than five years after completion of the previous review.

Local governments not scheduled to complete periodic review may, in certain circumstances, be required to complete the process. These circumstances include a high growth rate or a major public or private investment. See OAR 660-025-0035(4) for more details.

B. Voluntary Periodic Review

The statute and rule include two options for a city to voluntarily enter periodic review and one option for a county.

ORS 197.629(6) and OAR 660-025-0035(1) and (2) provide for a city or county to request the Commission to approve initiation of periodic review. This could be a city or county that is not required to complete periodic review or a city that wishes to commence the process early. In consideration of such a request, the Commission must consider “the needs of the jurisdiction to address the issue(s) identified in periodic review, the interrelationships of the statewide planning goals to be addressed in the periodic review project, and other factors the Commission finds relevant.” If the Commission approves the request, the periodic review process proceeds according to all rule requirements for periodic review.

An option for cities to complete a “customized” periodic review is provided in ORS 197.629(4) and OAR 660-025-0035(3). This option, sometimes euphemistically called “periodic review lite,” provides for more flexibility concerning the topics covered during periodic review. The tasks in such a periodic review may be more focused than would be the case in a scheduled periodic review, or address issues not normally included in periodic review. Development of a work program (see Chapter 3 for a description of work programs) under this option must include consultation with the Economic Revitalization Team (ERT). There are few other requirements specified for customized periodic review, so just work closely with ERT and DLCDC to explore options that best fit the needs of the city.

If a local government is considering a request to enter periodic review using one of these voluntary options, it should contact its DLCDC regional representative as early as possible.

3. COMMENCING PERIODIC REVIEW

When the schedule established by LCDC determines that it is time for a local government to begin periodic review, or if the Commission has approved a request to voluntarily begin the process, the department will send a periodic review notice that explains the process, timelines, and requirements for completing periodic review (OAR 660-025-0050).

The department will coordinate with other state agencies when developing the periodic review notice. The DLCD director may appoint a “Periodic Review Assistance Team” to assist in the effort (OAR 660-025-0060).

A. Citizen Involvement

After receiving a periodic review notice, the first step for the local government is to review its citizen involvement program to ensure that there is an adequate process for citizen participation in all phases of periodic review (OAR 660-025-0080(2)). The citizen



involvement program must provide opportunities for written and oral comments by interested citizens during development of the work program and when the work program is carried out.

No state statute or rule requires it, but many local governments appoint a citizen advisory committee at the beginning of periodic review to help steer public involvement throughout the process, or use an existing committee if one has been appointed. Make sure to check to see if the acknowledged citizen involvement program for the local government requires it. This committee can be the planning commission, but there are advantages to having a separate citizen committee because the planning commission will need to consider a wide range of input in making its recommendations, while the citizen advisory committee primarily communicates issues relevant to the lay public.

The local government must publish a notice in a newspaper of general circulation within the community informing citizens that

periodic review is commencing (OAR 660-025-0080(1)). Notice must also be provided to those who request it in writing.

B. Plan Evaluation

After deciding on a citizen involvement strategy, the local government will embark on an evaluation to determine whether the comprehensive plan needs to be updated. The statute (ORS 197.628) and rule (OAR 660-025-0070) include “factors” to apply when deciding whether periodic review is called for. These are:



- There has been a substantial change in circumstances, including but not limited to the conditions, findings, or assumptions upon which the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services, and urbanization; *
- Decisions based on acknowledged comprehensive plan and land use regulations are inconsistent with the goals relating to economic development, needed housing, transportation, public facilities and services, and urbanization; *
- There are issues of regional or statewide significance, intergovernmental coordination, or state agency plans or programs affecting land use which must be addressed in order to bring comprehensive plans and land use regulations into compliance with the goals relating to economic development, needed housing, transportation, public facilities and services, and urbanization; * or
- The existing comprehensive plan and land use regulations are not achieving the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services, and urbanization. *

The periodic review notice will include a checklist to assist in deciding whether these factors apply. As stated in the factors, the focus of the inquiry will be on parts of the plan related to economic development, housing, public facilities and services, transportation, and urbanization. This does not mean that comprehensive plan updates during periodic review can only amend sections of the plan addressing these five topics. It does mean the local

government must determine that there are needed amendments to some or all of these sections before the evaluation shows a “need” for periodic review.

The decision whether periodic review is needed must be made at a public meeting after DLCD, the Periodic Review Assistance Team, and citizens have had the opportunity to review and comment on the proposal (OAR 660-025-0090). In most cases, the county will be a partner in the periodic review, so it must be included as well.

The local government will need to decide whether plan updates are needed. If periodic review is warranted, the next step is to develop a work program; if it’s not, the decision that no further work is necessary must be adopted by the local government. Notice of the proposed evaluation must be provided to members of the public who requested it and to the Periodic Review Assistance Team at least 21 days prior to adoption of the decision that periodic review is not needed. The city must conduct at least one public hearing on the plan evaluation (OAR 660-025-0080(2)(a)).

The periodic review rule requires that the local government respond to comments it received during plan evaluation (OAR 660-025-0080-(2)(b)). The rule does not specify the form of this response, but written findings are advisable.

The evaluation must be submitted to DLCD within six months * (formerly four months) from when the city received its periodic review notice. A 90-day extension to complete the evaluation can be approved by the department upon request. Submittal of the evaluation must be accompanied by required forms, a list of people who requested notice of the city’s decision, and the result (a work program or a decision that no work program is necessary). Note that a work program, if required, must be completed within the same six-month timeframe.

C. Work Program

If the local government, through the plan evaluation, decides that the comprehensive plan needs to be updated, the next step is to develop a “work program.” A work program is “a detailed listing of tasks necessary to revise or amend the local comprehensive plan or land use regulations to ensure the plan and regulations achieve the statewide planning goals” (OAR 660-025-0020(7)). Keep in mind that the local government may discover through the course of completing a task that the plan is in fact adequate, and no amendment is necessary.

An important consideration to keep in mind while developing the work program is that a statute encourages the state and local governments to ensure periodic review takes no longer than three years (ORS 197.633(6)). The local government should not let “its eyes be bigger than its stomach”—that is, the plan may be in need of many updates, but periodic review may not be the best process to address all those needs. The city would also be well-served to prepare an estimated three-year budget for completion of the work program. Work closely with your DLCDC regional representative for guidance on periodic review grants that will assist in completion of the work program.



In developing the work program, the local government must follow its citizen involvement program (OAR 660-025-0090(1)(a)). Citizens must be provided the opportunity to propose work tasks (OAR 660-025-0080(2)(a)).

A work program must be submitted to DLCDC for review and approval. As explained in the previous section, the local government must submit the plan evaluation and work program within six months of receiving periodic review notice. The local government must provide notice of the action on the work program to DLCDC and individuals who participated orally or in writing during local proceedings * (OAR 660-025-0100(1); formerly notice was required only for those who requested it in writing). Those who participated may submit objections to the work program to DLCDC.

DLCDC will approve or reject the work program (or determination that no work program is necessary), or refer the matter to LCDC (OAR 660-025-0110(1)). A DLCDC decision to approve the local government’s action (work program or determination that no work program is necessary) is final and cannot be appealed *. A DLCDC decision to reject the local government’s decision can be appealed to LCDC (OAR 660-025-0110).

Once the work program is complete and approved, the local government embarks on completing the tasks listed in the work program.

D. Work Tasks

Since the evaluation focused on the economic development, needed housing, transportation, public facilities and services, and urbanization elements of the plan, the work program is likely to be weighted toward those topics as well. While other sections of the comprehensive plan may be out-of-date, limited resources and the aforementioned time constraints on periodic review may conspire to force the local government to make difficult choices about what to include on the work program.

Certain statutes and rules are implemented through periodic review. For example, the Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) administrative rule (OAR 660, Division 23) states that a local government must, with some exceptions, address the requirements of the rule at its next periodic review. If the comprehensive plan has not been updated to address these requirements, the city will need to consider, in coordination with DLCDC, whether a task to update this part of the plan needs to be in the work program.

There are no administrative rules on how to organize the tasks on a work program. One thing to consider, however, is that when the city submits a task, it needs to be a *complete* task (see OAR 660-025-0130(3)). Task completeness is addressed in more detail in the next chapter. Therefore, carefully consider the steps needed to complete a task early in the process to avoid troubles later on.



Difficulties are minimized when a task addresses only one element of the plan or code that is to be reviewed and potentially updated. For example, if the local government needs to update the housing and economic development chapters of its plan, the steps may be similar for each and include things like (1) inventories, (2) analysis, and (3) a plan update. Rather than including both of the inventories in Task 1, the analyses in Task 2, etc., it is advisable to include the Housing Element update in one task and the Economic Development Element in another. This way, if the studies proceed at different paces, one won't hold up the other.

If this method of organization doesn't satisfy local government needs, other alternatives are acceptable. The work program must identify what the city expects it will ultimately submit in fulfillment of a task * (OAR 660-025-0130(3)).

4. COMPLETING PERIODIC REVIEW TASKS

The process of completing a task varies based on the needs and practices of the affected jurisdiction and the nature of the task. Generally speaking, the local process is essentially the same as it would be for a plan amendment outside periodic review. Only the notice requirements are different.

The process and effort that a local government puts into a task will vary. Often, periodic review is employed for major plan updates, so they require a significant investment of time and effort by the local government; but this would be the case if the same plan amendment was initiated outside periodic review. In some cases, the plan evaluation shows that an element of the plan needs updating, but it may be a minor change requiring a corresponding level of work.

Regarding the local process, the local government's citizen involvement program should be used as the controlling instrument. Generally, an amendment to the comprehensive plan or code will require, at a minimum, one hearing before the planning commission and one at the city council. Often a co-adoption by the county will be in order. For a major effort such as a UGB expansion, citizen and technical advisory committees may be employed to develop, propose, or review updates prior to any hearings.

A. A Word About Grants

For many years, DLCDC has provided grants to assist in the completion of periodic review tasks. The grant program is operated on a biennial basis, with the biennium beginning and ending in the middle of odd-numbered years. These grants frequently do not cover the full cost of completing periodic review, but DLCDC attempts to make a significant contribution to completion of tasks.



B. Work Program Amendments

From time to time, a city may determine that an approved work program needs to be amended. Amendments are allowed in certain circumstances (OAR 660-025-0170(1)). The most common reason is: "Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision." The

department cannot unilaterally make an amendment to a city's work program. The Commission can, but has rarely done so.

Most amendments are made upon request by the local government. The Commission can require, or DLCD may approve, a work program amendment if one of the following circumstances is found:

- Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision; or
- Issues relating to needed housing, economic development, transportation, public facilities and services, or urbanization were omitted from the work program but must be addressed in order to ensure compliance with the statewide planning goals.
- Issues of goal compliance are raised as a result of completion of a work task resulting in a need to undertake further review or revisions;
- Issues of regional or statewide significance arising out of another local government's periodic review require an enhanced level of coordination.



No statute or rule specifies the local process for amending a work program. The citizen involvement rule (OAR 660-025-0080) says only that the local government must provide for public participation “in all phases of the local periodic review.” There have been no LUBA or court opinions regarding local procedures for work program amendments. Having the city council approve the request after a public hearing is a safe practice, but each jurisdiction will need to make this decision based upon its citizen involvement program and attorney's advice.

DLCD does not, as a practice, review the procedure a local government employed in considering a work program amendment, but rather limits review to the criteria listed above.

C. What if We're Not Done On Time?

An administrative rule (OAR 660-025-0130(6)) allows DLCD to approve *one* extension of a task submittal date for up to one year. The city should make the request before the original submittal date expires, and the department may approve the request upon a finding that there is “good cause.”

There is no guidance in any rule or court decision whether a local government’s decision to request extension of a date requires a public process. As stated in the previous section, employing a public process is the safest route, but no such requirement is explicit.

D. Submitting a Task

Once the city has completed a plan update that is on the periodic review work program (or completes designation or amendment of an urban reserve area, or a UGB amendment over 50 acres for a city over 2,500 population completed outside periodic review ♦), there are specific requirements regarding what is to be included in the submittal and the form of notice.



Some tasks, particularly UGB amendments, require co-adoption by the city and county. The city and county must coordinate and provide *one submittal* to the state (OAR 660-025-0130(1)).

That is, the county (which usually acts last) should transmit its record to the city; the city will then package the city and county materials and submit them together. This reduces the opportunities for confusion and multiple appeals.

There are three elements of complete submittal:

1. The final decision;
2. A list of those who participated in local proceedings or asked to receive notice; and
3. The appropriate DLCD form.

The final decision. If the city decided that no amendment to the plan or code was necessary to complete the task, the submittal should include the decision and the record of the decision. Such a decision will usually be by resolution or order.

If the plan or code, or both, get amended, then the decision will be made by ordinance (see ORS 227.186(2) and 215.503(2)). Be sure to submit a signed ordinance along with the record of the decision.

In either case, the administrative rule specifies the record that is to be submitted (OAR 660-025-0130(3) *):

- (a) If the local record does not exceed 2,000 pages, a submittal must include the entire local record, including but not limited to, adopted ordinances and orders, studies, inventories, findings, staff reports, correspondence, hearings minutes, written testimony and evidence, and any other items specifically listed in the work program;
- (b) If the local record exceeds 2,000 pages, a submittal must include adopted ordinances and orders, findings, hearings minutes, written testimony and evidence, and a detailed index listing items not included in the submittal. Items in the local record not included in the submittal must be made available for public review during the period for submitting objections under OAR 660-025-0140. The director or Commission may require submission of any materials not included in the initial submittal;
- (c) A task submittal of over 500 pages must include an index of all submitted materials.



Notice list. The list should include everyone who participated orally or in writing during local consideration of the task *, and anyone who requested notice of the local government’s final decision (formerly only the latter was required). DLCDC needs this list because it is required to send notice of its decision on the task to these individuals. There is more about notice later in this chapter.

Submittal form. DLCDC will provide the appropriate form to attach to the front of your submittal. An example is included as an exhibit at the end of this report. Please be sure to fill out this form completely and accurately.

E. Submitting Part of a Task

In limited circumstances, the local government may submit part of a task or a subtask. The work program may be organized in a manner that one task will have multiple products (although this is not advised—see Chapter 3, Section D). For example, a task could be to update public facilities plans, with subtasks for the water plan, sewer plan, and storm water management plan. These

subtasks may be independent of each other and adopted by the local government at separate times.

In this case, you may submit a subtask *if* doing so has been spelled out in the work program (OAR 660-025-0130(3)). Otherwise, DLCDC must wait for complete task submittal prior to review.

If the subtask is a residential land needs analysis prepared in conformity with Goal 10 and ORS 197.296 (whether it's a periodic review task or not ♦), and it shows a deficit of residential land relative to need, then the needs analysis cannot be adopted or submitted separately from the solution to the deficit (*i.e.*, measures to increase density or UGB expansion, or both). See *DLCD v. City of McMinnville* 41 Or LUBA 210 or LUBA No. 2001-093.

F. Notice of the Final Decision

After the local government (or both city and county) makes a final decision on a work task, the local government must notify DLCD and persons who participated at the local hearings orally or in writing *, or who requested notice in writing. (Formerly, notice was only required to those who requested it in writing.) The notice must contain the following information:

1. Where a person can review a copy of the local government's final decision, and how a person may obtain a copy of the final decision;
2. The requirements for filing a valid objection to the work task; and
3. That objectors must give a copy of the objection to the local government.

NOTE: A Notice of Proposed Action to DLCD (alternatively called a "45-day Notice," "green sheet," and "Form 1") is *not* required and is *not appropriate* to send prior to a hearing on consideration of an amendment related to a periodic review task (although one should be sent for a UGB amendment that is not on a work program but which is evaluated in the manner of periodic review ♦).

A sample notice of decision is included as an exhibit at the end of this report.

G. Department Review of a Submittal for Completeness

After DLCD receives a submittal, it will review the materials to decide whether it is complete (OAR 660-025-0130(2)-(3)). See Section E, above, regarding submittal of a portion of a task.

If DLCD determines that the submittal is complete, it will commence with a review concerning whether the submittal complies with relevant statutes, goals, and rules. If the submittal is determined to be incomplete, DLCD will notify the affected local government(s) and those on the notice list the local government provided. The department may decide to proceed with a review even if the submittal is deemed to be incomplete.

5. REVIEW AND APPEAL OF TASKS

Amendments to plans and codes made in periodic review are treated differently than such amendments made under post-acknowledgement plan amendment procedures.

A. Department Review

Periodic review task submittals are reviewed by DLCD. Once the decision has been made to begin review of a submitted task, there are statutory and rule requirements DLCD must follow. These include addressing objections, sending notice, and making timely decisions.

Timelines for Decision. Regarding the deadline for review, the department must make a decision to approve or remand the task, or refer it to the Commission, within 120 days of the date it was submitted (OAR 660-025-0150(3)). This deadline can be extended by the Commission or waived by the local government.



The department may not, however, make a decision within the first 21 days after submittal if there are any parties that are eligible to submit an objection.

If DLCD misses the 120-day deadline, and there are no valid objections, the task becomes approved. If there are valid objections and the department does not act within 120 days, the matter is referred to the Commission for a hearing and decision (OAR 660-025-0150(3)).

Objections. Anyone who participated at the local level orally or in writing is eligible to submit an objection to the local government's task (OAR 660-025-0140(2)-(3)). In order to be valid, the objection must:

1. Be in writing and received by DLCD within 21 days of the date the notice of decision was sent;
2. Clearly identify an alleged deficiency in the work task

3. Suggest specific revisions that would resolve the objection; and
4. Demonstrate that the objecting party participated orally or in writing during the local process.

Written decision. A decision on the task submittal must be in writing. If there are no valid objections and the decision is to approve the submittal, the order may be a simple letter.

If there are objections, DLCD must address them in a report regardless of whether the decision is ultimately approved or remanded (OAR 660-025-0150(1)-(3)). If DLCD's review of the task results in a remand, the reasons for the remand must be explained in a report. Sometimes, DLCD will decide to approve portions of the submittal and remand a portion. In these cases, the approved portions are complete unless appealed.

The department may decide to refer the task to the Commission for review. In this case, the submittal will be treated much like an appeal, but without a department decision.

Notice of a DLCD decision to approve, remand, or refer the task must be provided to the local government, those who submitted objections, and anyone who requested the notice in writing.

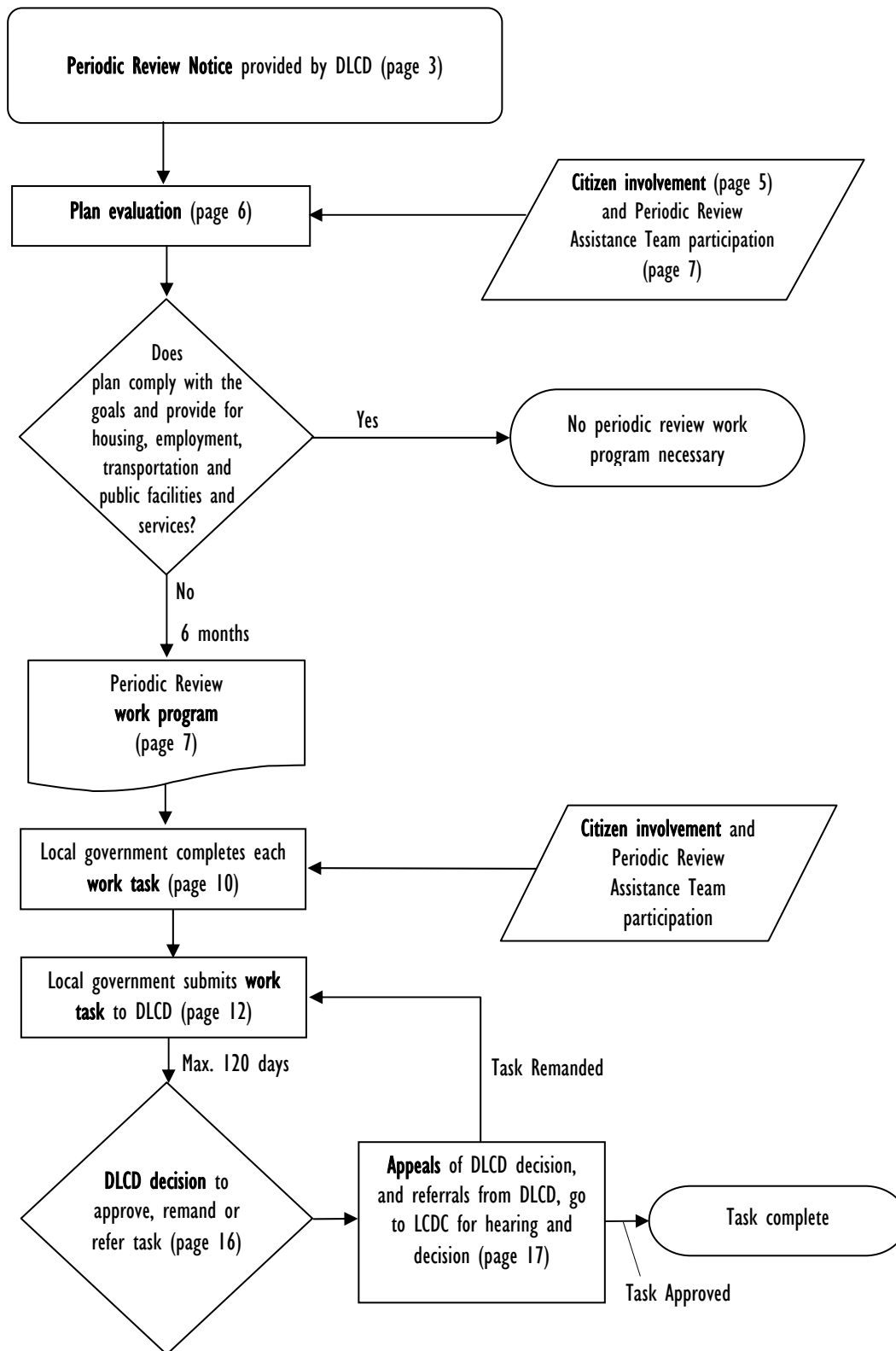
B. Appeals

A DLCD decision to approve or remand a task may be appealed to LCDC. The Commission must conduct a hearing within 90 days of the appeal (or referral), although there is some opportunity for extending this timeline. The Commission may uphold or modify the DLCD decision and approve or remand the task according to its discretion.



The details of appeals and Commission hearings are beyond the scope of this document. For more information, refer to OAR 660-025-0150 and -0160.

PERIODIC REVIEW PROCESS



APPENDIX A

Chapter 197 — Comprehensive Land Use Planning Coordination

2005 EDITION

(with amendments effective July 1, 2007)

197.626 Expanding urban growth boundary and designating urban reserve area subject to periodic review. A metropolitan service district that amends its urban growth boundary to include more than 100 acres, or a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth boundary to include more than 50 acres or that designates urban reserve areas under ORS 195.145, shall submit the amendment or designation to the Land Conservation and Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650. [1999 c.622 §14; 2001 c.672 §10; 2003 c.793 §4]

197.628 Periodic review; policy; conditions that indicate need for periodic review. (1) It is the policy of the State of Oregon to require the periodic review of comprehensive plans and land use regulations in order to respond to changes in local, regional and state conditions to ensure that the plans and regulations remain in compliance with the statewide planning goals adopted pursuant to ORS 197.230, and to ensure that the plans and regulations make adequate provision for economic development, needed housing, transportation, public facilities and services and urbanization.

(2) The Land Conservation and Development Commission shall concentrate periodic review assistance to local governments on achieving compliance with those statewide land use planning laws and goals that address economic development, needed housing, transportation, public facilities and services and urbanization.

(3) The following conditions indicate the need for periodic review of comprehensive plans and land use regulations:

(a) There has been a substantial change in circumstances including but not limited to the conditions, findings or assumptions upon which

the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization;

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

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

(d) The local government, commission or Department of Land Conservation and Development determines that the existing comprehensive plan and land use regulations are not achieving the statewide planning goals relating to economic development, needed housing, transportation, public facilities and services and urbanization. [1991 c.612 §2; 1999 c.622 §2; 2005 c.829 §1]

197.629 Schedule for periodic review; coordination. (1) The Land Conservation and Development Commission shall establish and maintain a schedule for periodic review of comprehensive plans and land use regulations. Except as necessary to coordinate approved periodic review work programs and to account for special circumstances that from time to time arise, the schedule shall reflect the following timelines:

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

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

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

(3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific as to that portion of the county within the urban growth boundary of a city subject to periodic review under this section, the county shall conduct periodic review for that portion of the county according to the schedule and work program set for the county.

(4) If the Land Conservation and Development Commission pays the costs of a local government that is not subject to subsection (1) of this section to perform new work programs and work tasks, the commission may require the local government to complete periodic review when the local government has not completed periodic review within the previous five years if:

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

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

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

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

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

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

(5) The Land Conservation and Development Commission may schedule periodic review for a local government earlier than provided in subsection (1) of this section if necessary to ensure that all local governments in a region whose land use decisions would significantly affect other local governments in the region are conducting periodic review concurrently, but not sooner than five years after completion of the previous periodic review.

(6) A city or county that is not required to complete periodic review under subsection (1) of this section may request periodic review by the commission.

(7) As used in this section, “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). [1999 c.622 §10; 2001 c.527 §3]

197.630 [1981 c.748 §5c; repealed by 1983 c.827 §59]

197.631 Commission to amend regulations to facilitate periodic review. In order to use state and local periodic review resources most efficiently and effectively and to concentrate periodic review on adequate provision of economic development, needed housing, transportation, public facilities and services and urbanization, the Land Conservation and Development Commission shall adopt, amend or repeal the statewide land use planning goals, guidelines and corresponding rules as necessary

to facilitate periodic review and to provide for compliance by local governments with those goals not described in ORS 197.628 (2) through the post-acknowledgment procedures of ORS 197.610 to 197.625. [1999 c.622 §11; 2005 c.829 §3]

197.633 Two phases of periodic review; rules; appeal of decision on work program; schedule for completion; extension of time on appeal. (1) The periodic review process is divided into two phases. Phase one is the evaluation of the existing comprehensive plan, land use regulations and citizen involvement program and, if necessary, the development of a work program to make needed changes to the comprehensive plan or land use regulations. Phase two is the completion of work tasks outlined in the work program.

(2) The Land Conservation and Development Commission shall adopt rules for conducting periodic review. The rules shall provide a process for:

- (a) Initiating periodic review;
- (b) Citizen participation;
- (c) The participation of state agencies;
- (d) The preparation, review and approval of an evaluation of a comprehensive plan and land use regulations;
- (e) Review of a work program; and
- (f) Review of completed work tasks.

(3) A decision by the Director of the Department of Land Conservation and Development to approve a work program, that no work program is necessary or that no further work is necessary is final and not subject to appeal.

(4) The director:

(a) Shall take action on a work task not later than 120 days after the local government submits the work task for review unless the local government waives the 120-day deadline or the

commission grants the director an extension. If the director does not take action within the time period required by this subsection, the work task is deemed approved. The department shall provide a letter to the local government certifying that the work task is approved unless an interested party has filed a timely objection to the work task consistent with administrative rules for conducting periodic review. If a timely objection is filed, the director shall refer the work task to the commission.

(b) May approve or remand a work task or refer the work task to the commission for a decision. A decision by the director to approve or remand a work task may be appealed to the commission.

(5) Except as provided in this subsection, the commission shall take action on the appeal or referral within 90 days of the appeal or referral. Action by the commission in response to an appeal from a decision of the director is a final order subject to judicial review in the manner provided in ORS 197.650. The commission may extend the time for taking action on the appeal or referral if the commission finds that:

(a) The appeal or referral is appropriate for mediation;

(b) The appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit; or

(c) The parties to the appeal and the commission agree to an extension, not to exceed an additional 90 days.

(6) The commission and a local government shall attempt to complete periodic review within three years after approval of a work program. In order to promote the timely completion of periodic review, the commission shall establish a system of incentives to encourage local government compliance with timelines in periodic review work programs. [1991 c.612 §3; 1993 c.18 §38; 1999 c.622 §3; 2001 c.527 §1; 2005 c.829 §4]

197.635 [1981 c.748 §6; repealed by 1983 c.827 §59]

197.636 Procedures and actions for failure to meet periodic review deadlines. (1) Upon good cause shown by a local government, the Director of the Department of Land Conservation and Development may allow the local government an extension of time for submitting a work program or completing a work task. A decision by the director to grant or deny an extension may be referred to the Land Conservation and Development Commission by the director. The Department of Land Conservation and Development or the commission shall not extend the deadline for submitting a work program more than once nor for more than 90 days, and shall not extend the deadline for a work task more than once nor for more than one year.

(2) If a local government fails to submit a work program or to complete a work task by the deadline set by the director or the commission, including any extension that has been granted, the director shall schedule a hearing before the commission. The commission shall issue an order imposing one or more of the following sanctions until the work program or the work task receives final approval by the director or the commission:

(a) Require the local government to apply those portions of the goals and rules to land use decisions as specified in the order. Sanctions may be imposed under this paragraph only when necessary to resolve a specific deficiency identified in the order.

(b) Forfeiture of all or a portion of the grant money received to conduct the review, develop the work program or complete the work task.

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

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

(3) If the department receives a work program or work task completed in response to a commission order issued under subsection (2) of this section, the director shall evaluate and issue a decision on the work program or work task within 90 days.

(4) Commission action pursuant to subsection (1) or (2) of this section is a final order subject to judicial review in the manner provided in ORS 197.650. [1991 c.612 §4; 1999 c.622 §4; 2001 c.527 §2; 2005 c.829 §5]

197.637 Department of Land Conservation and Development may request review by Housing and Community Services Department of certain local housing measures.

(1) Upon request of the Department of Land Conservation and Development, the Housing and Community Services Department shall review the inventory and analysis of housing, and measures taken to address the housing need, required of certain local governments under ORS 197.296. The review shall address the likely effect of measures developed by a local government under ORS 197.296 (6) or (7) on the adequacy of the supply of buildable land and opportunities to satisfy needs identified under ORS 197.296 (3).

(2) The Land Conservation and Development Commission and the Director of the Department of Land Conservation and Development shall consider the review and any recommendations of the Housing and Community Services Department when determining whether a local government has complied with the statewide land use planning goals and the requirements of ORS 197.296. [1999 c.622 §12; 2001 c.908 §4]

197.638 Department of Land Conservation and Development may request review by Economic and Community Development Department of local inventory and analysis of industrial and commercial land.

(1) Upon request of the Department of Land Conservation and Development, the Economic and Community Development Department shall review the inventory and analysis of industrial and commercial land, and measures taken to address the land needs, required of certain local governments under ORS 197.712. The review shall address the likely effect of measures

developed by a local government on the adequacy of the supply of sites and opportunities to satisfy needs identified under ORS 197.712.

(2) The Land Conservation and Development Commission and the Director of the Department of Land Conservation and Development shall consider the review and any recommendations of the Economic and Community Development Department when determining whether a local government has complied with the statewide land use planning goals and the requirements of ORS 197.712. [1999 c.622 §13]

197.639 State assistance teams; alternative coordination process; grant and technical assistance funding; advisory committee. (1) In addition to coordination between state agencies and local government established in certified state agency coordination programs, the Department of Land Conservation and Development may establish one or more state assistance teams made up of representatives of various agencies and local governments, utilize the Economic Revitalization Team established under ORS 284.555 or institute an alternative process for coordinating agency participation in the periodic review of comprehensive plans.

(2) The Economic Revitalization Team may work with a city to create a voluntary comprehensive plan review that focuses on the unique vision of the city, instead of conducting a standard periodic review, if the team identifies a city that the team determines can benefit from a customized voluntary comprehensive plan review.

(3) The department may develop model ordinance provisions to assist local governments in the periodic review plan update process and in complying with new statutory requirements or new land use planning goal or rule requirements adopted by the Land Conservation and Development Commission outside the periodic review process.

(4) A local government may arrange with the department for the provision of periodic review planning services and those services may be paid with grant program funds.

(5) The commission shall establish an advisory committee composed, at a minimum, of representatives from the League of Oregon Cities, the Association of Oregon Counties, metropolitan service districts, the Special Districts Association of Oregon, land use planning public interest groups and developer interest groups. The advisory committee shall advise the commission and the department on the allocation of grants and technical assistance funding from General Fund sources and other issues assigned by the commission. [1991 c.612 §5; 2003 c.793 §5]

197.640 [1981 c.748 §9; 1983 c.827 §11; 1987 c.69 §1; 1987 c.729 §7; 1987 c.856 §8; repealed by 1991 c.612 §23]

197.641 [1983 c.827 §11b; 1987 c.729 §8a; repealed by 1991 c.612 §23]

197.643 [1983 c.827 §11c; 1987 c.729 §9; repealed by 1991 c.612 §23]

197.644 Modification of work program; commission jurisdiction and rules. (1) The Land Conservation and Development Commission may direct or, upon request of the local government, the Director of the Department of Land Conservation and Development may authorize a local government to modify an approved work program when:

(a) Issues of regional or statewide significance arising out of another local government's periodic review require an enhanced level of coordination;

(b) Issues of goal compliance are raised as a result of completion of a work program task resulting in a need to undertake further review or revisions;

(c) Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision; or

(d) Issues relating to needed housing, employment, transportation or public facilities and services were omitted from the work

program but must be addressed in order to ensure compliance with the statewide planning goals.

(2) The commission shall have exclusive jurisdiction for review of the evaluation, work program and completed work program tasks as set forth in ORS 197.628 to 197.650. The commission shall adopt rules governing standing, the provision of notice, conduct of hearings, adoption of stays, extension of time periods and other matters related to the administration of ORS 197.180, 197.245, 197.254, 197.295, 197.320, 197.620, 197.625, 197.628 to 197.650, 197.712, 197.747, 197.840, 215.416, 227.175 and 466.385.

(3)(a) Commission action pursuant to subsection (1) or (2) of this section is a final order subject to judicial review in the manner provided in ORS 197.650.

(b) Action by the director pursuant to subsection (1) of this section may be appealed to the commission pursuant to rules adopted by the commission. Commission action under this paragraph is a final order subject to judicial review in the manner provided in ORS 197.650. [1991 c.612 §6; 1997 c.634 §1; 1999 c.622 §5]

197.645 [1983 c.827 §11d; 1987 c.729 §10; repealed by 1991 c.612 §23]

197.646 Implementation of new or amended goals, rules or statutes; rules. (1) A local government shall amend its acknowledged comprehensive plan, regional framework plan and land use regulations implementing either plan by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with:

(a) A new statutory requirement; or

(b) A new land use planning goal or rule requirement adopted by the Land Conservation and Development Commission.

(2) Periodic review is not the implementation process for new statutory, land use planning goal or rule requirements.

(3)(a) The Department of Land Conservation and Development shall notify local governments when a new statutory requirement or a new land use planning goal or rule requirement adopted by the commission requires changes to an acknowledged comprehensive plan, regional framework plan and land use regulations implementing either plan.

(b) The commission shall establish, by rule, the time period within which an acknowledged comprehensive plan, regional framework plan and land use regulations implementing either plan must be in compliance with:

(A) A new statutory requirement, if the legislation does not specify a time period for compliance; and

(B) A new land use planning goal or rule requirement adopted by the commission.

(4) When a local government does not adopt amendments to a comprehensive plan, regional framework plan and land use regulations implementing either plan as required by subsection (1) of this section, the new statutory, land use planning goal or rule requirements apply directly to the local government's land use decisions. The failure to adopt amendments to a comprehensive plan, regional framework plan and land use regulations implementing either plan required by subsection (1) of this section is a basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335. [1991 c.612 §7; 2005 c.829 §7]

Department of Land Conservation and Development
OAR Chapter 660

**DIVISION 025
PERIODIC REVIEW**

1 **660-025-0010**

2 **Purpose**

3 The purpose of this division is to carry out the state policy outlined in ORS 197.010
4 and 197.628. This division is intended to implement provisions of ORS 197.626 through
5 197.646. The purpose for periodic review is to ensure that comprehensive plans and land use
6 regulations remain in compliance with the statewide planning goals adopted pursuant to ORS
7 197.230, and that adequate provision for needed housing, economic development,
8 transportation, public facilities and services, and urbanization are coordinated as described in
9 ORS 197.015(5). Periodic Review is a cooperative process between the state, local
10 governments, and other interested persons.

11 Stat. Auth.: ORS 183 & 197

12 Stats. Implemented: ORS 197.628 - 197.646

13 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00;
14 LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06

15
16 **660-025-0020**

17 **Definitions**

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

20 (1) "Economic Revitalization Team" means the team established under ORS 284.555.

21 (2) "Filed" or "Submitted" means that the required documents have been received by
22 the Department of Land Conservation and Development at its Salem, Oregon, office.

23 (3) "Final Decision" means the completion by the local government of a work task on
24 an approved work program, including the adoption of supporting findings and any
25 amendments to the comprehensive plan or land use regulations. A decision is final when the
26 local government's decision is transmitted to the department for review.

27 (4) "Metropolitan planning organization" means an organization located wholly within
28 the State of Oregon and designated by the Governor to coordinate transportation planning in
29 an urbanized area of the state pursuant to 49 USC 5303(c).

30 (5) "Objection" means a written complaint concerning the adequacy of an evaluation,
31 proposed work program, or completed work task.

32 (6) "Participated at the local level" means to have provided substantive comment,
33 evidence, documents, correspondence, or testimony to the local government during the local
34 proceedings regarding a decision on an evaluation, work program or work task.

35 (7) "Work Program" means a detailed listing of tasks necessary to revise or amend the
36 local comprehensive plan or land use regulations to ensure the plan and regulations achieve
37 the statewide planning goals. A work program must indicate the date that each work task must
38 be submitted to the department for review.

1 (8) “Work Task” or “task” means an activity, that is included on an approved work
2 program and that generally results in an adopted amendment to a comprehensive plan or land
3 use regulation.

4 Stat. Auth.: ORS 183 & 197

5 Stats. Implemented: ORS 197.015 & 197.628 - 197.646

6 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
7 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

8
9 **660-025-0030**

10 **Periodic Review Schedule**

11 (1) The commission must approve, and update as necessary, a schedule for periodic
12 review. The schedule must include the date when each local government must be sent a letter
13 by the department requesting the local government to commence the periodic review process.

14 (2) The schedule developed by the commission must reflect the following:

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

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

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

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

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

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

37 Stat. Auth.: ORS 197.040 & 197.633

38 Stats. Implemented: ORS 197.628 - 197.646

39 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00;
40 LCDD 4-2006, f. & cert. ef. 5-15-06

41
42 **660-025-0035**

43 **Initiating Periodic Review Outside the Schedule**

44 (1) A local government may request, and the commission may approve, initiation of
45 periodic review not otherwise provided for in the schedule established under OAR 660-025-
46 0030. The request must be submitted to the commission along with justification for the

1 requested action. The justification must include a statement of local circumstances that
2 warrant periodic review and identification of the statewide planning goals to be addressed.

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

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

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

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

20 (4) If the commission pays the costs of a local government that is not subject to OAR
21 660-025-0030 to perform new work programs and work tasks, the commission may require
22 the local government to complete periodic review when the local government has not
23 completed periodic review within the previous five years if:

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

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

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

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

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

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

35 (5) As used in section (4) of this rule, “the costs of a local government” means: normal
36 and customary expenses for supplies, personnel and services directly related to preparing a
37 work program, and completing studies and inventories, drafting of ordinances, preparing and
38 sending notices of hearings and meetings, conducting meetings and workshops, and
39 conducting hearings on possible adoption of amendments to plans or codes, to complete a
40 work task.

41 Stat. Auth.: ORS 197.040 & 197.633

42 Stats. Implemented: ORS 197.628 - ORS 197.646

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

44

1 **660-025-0040**

2 **Exclusive Jurisdiction of LCDC**

3 (1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction to review
4 the evaluation, work program, and all work tasks for compliance with the statewide planning
5 goals and applicable statutes and administrative rules. Pursuant to ORS 197.626, the
6 commission has exclusive jurisdiction to review the following land use decisions for
7 compliance with the statewide planning goals:

8 (a) If made by a city with a population of 2,500 or more inside its urban growth
9 boundary, amendments to an urban growth boundary to include more than 50 acres;

10 (b) If made by a metropolitan service district, amendments to an urban growth
11 boundary to include more than 100 acres;

12 (c) plan and land use regulations that designate urban reserve areas.

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

16 Stat. Auth.: ORS 197.040

17 Stats. Implemented: ORS 195.145, 197.628 - 197.646, 197.825

18 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
19 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
20 cert. ef. 5-15-06

21
22 **660-025-0050**

23 **Commencing Periodic Review**

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

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

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

32 (b) The date the evaluation and work program or evaluation and decision that no work
33 program is required must be submitted;

34 (c) Applicable evaluation forms; and

35 (d) Other information the department considers relevant.

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

38 Stat. Auth.: ORS 197.040 & 197.633

39 Stats. Implemented: ORS 197.628 - 197.646

40 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

41
42 **660-025-0060**

43 **Periodic Review Assistance Team(s)**

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

1 agencies, regional governments and local governments on the membership of Periodic
2 Review Assistance Team(s).

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

4 (a) Information relevant to the periodic review process;

5 (b) New and updated information;

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

7 (d) Coordinated evaluation and comment from state agencies.

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

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

13 (5) Authority. The Periodic Review Assistance Team shall be an advisory body. The
14 team may make recommendations concerning an evaluation, a work program or work task
15 undertaken pursuant to an approved work program. The team may also make
16 recommendations to cities, counties, state agencies and the commission regarding any other
17 issues related to periodic review.

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

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

23 Stat. Auth.: ORS 197.040 & 197.633

24 Stats. Implemented: ORS 197.628 - 197.646

25 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

26
27 **660-025-0070**

28 **Need for Periodic Review**

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

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

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

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

45 (d) The existing comprehensive plan and land use regulations are not achieving the
46 statewide planning goals relating to economic development, needed housing, transportation,
47 public facilities and services and urbanization.

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

5 Stat. Auth.: ORS 197.040

6 Stats. Implemented: ORS 197.628 - 197.646

7 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00;
8 LCDD 4-2006, f. & cert. ef. 5-15-06

9
10 **660-025-0080**

11 **Citizen Involvement**

12 (1) The local government must use its acknowledged or otherwise approved citizen
13 involvement program to provide adequate participation opportunities for citizens and other
14 interested persons in all phases of the local periodic review. Each local government must
15 publish a notice in a newspaper of general circulation within the community informing
16 citizens about the initiation of the local periodic review. The local government must also
17 provide written notice of the initiation of the local periodic review to other persons who, in
18 writing, request such notice.

19 (2) Each local government must review its citizen involvement program and assure
20 that there is an adequate process for citizen involvement in all phases of the periodic review
21 process. Citizen involvement opportunities must, at a minimum, include:

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

28 (b) Interested persons must have the opportunity to comment in writing in advance of
29 or at one or more hearings on a periodic review work task. Citizens and other interested
30 persons must have the opportunity to present comments orally at one or more hearings on a
31 periodic review work task. The local government must respond to comments at or following
32 the hearing on a work task.

33 Stat. Auth.: ORS 197.040 & 197.633

34 Stats. Implemented: ORS 197.628 - 197.646

35 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 4-2006, f. & cert. ef. 5-15-06

36
37 **660-025-0085**

38 **Commission Hearings Notice and Procedures**

39 (1) Hearings before the commission on a referral of a local government submittal of an
40 evaluation, work program, determination that a work program is not necessary, or hearings on
41 referral or appeal of a work task must be noticed and conducted in accordance with this rule.

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

44 (a) At the request of a local government and a person who files a valid objection or
45 appeals the director's decision, the department may provide mediation services to resolve
46 disputes related to the appeal. Where mediation is underway, the commission shall delay its
47 hearing until the mediation process is concluded or the director, after consultation with the

1 mediator, determines that mediation is of no further use in resolution of the work program or
2 work task disagreements;

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

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

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

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

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

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

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

21 (c) Oral argument will be allowed. The local government or governments whose
22 decision is under review and parties who filed objections or an appeal may present oral
23 argument. Oral argument will not be an opportunity to present new evidence regarding the
24 matter before the commission. The local government that submitted the task may provide
25 general information on the task submittal and address those issues raised in the department
26 review, objections and the appeal. Persons who submitted objections or an appeal may
27 address only those issues raised in objections or the appeal. Other affected local governments
28 may address only those issues raised in objections or the appeal.

29 (d) The commission may request new evidence or information at its discretion and
30 will allow the parties an opportunity to review and respond to the new evidence or
31 information, subject to the time limits in section (2) of this rule.

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

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

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

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

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

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

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

1 (f) The commission must make a decision on the appeal or referral as provided in this
2 division.

3 Stat. Auth.: ORS 197.040 & 197.633

4 Stats. Implemented: ORS 197.628 - 197.646

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

6
7 **660-025-0090**

8 **Evaluation, Work Program or Decision That No Work is Necessary**

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

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

15 (b) The local government must provide opportunities for participation by the
16 department and Periodic Review Assistance Team. Issues related to coordination between
17 local government comprehensive plan provisions and certified state agency coordination
18 programs that are raised by the affected agency, or Periodic Review Assistance Team must be
19 considered by the local government.

20 (c) The local government may provide opportunities for participation by the Economic
21 Revitalization Team.

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

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

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

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

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

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

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

46 (4) A decision by the director to deny a request for an extension may be appealed to
47 the commission according to the procedures in OAR 660-025-0110(5), or the director may

1 refer a request for extension under section (3) of this rule to the commission pursuant to OAR
2 660-025-0085.

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

7 Stat. Auth.: ORS 197.040 & 197.633

8 Stats. Implemented: ORS 197.628 - 197.646

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

11
12 **660-025-0100**

13 **Notice and Filing of Objections (Work Program Phase)**

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

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

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

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

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

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

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

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

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

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

37 (4) If no valid objections are received within the 21-day objection period, the director
38 may approve the evaluation and work program or decision that no work program is required.
39 Regardless of whether valid objections are received, the department may make its own
40 determination of the sufficiency of the evaluation and work program or determination that no
41 work program is necessary.

42 (5) If valid objections are received or the department conducts its own review, the
43 department must issue a report. The report must focus on the issues raised in valid objections
44 and concerns of the department. The report must identify specific work tasks to resolve valid
45 objections or department concerns. A valid objection must either be sustained or rejected by

1 the department or commission based on the statewide planning goals and related statutes and
2 administrative rules.

3 Stat. Auth.: ORS 197.040 & 197.633

4 Stats. Implemented: ORS 197.628 - 197.646

5 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
6 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06

7
8 **660-025-0110**

9 **Director and Commission Action (Work Program Phase)**

10 (1) The director may:

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

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

16 (c) Refer the evaluation and work program or evaluation and determination that no
17 work program is necessary to the commission for review and action.

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

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

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

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

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

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

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

40 (7) In response to an appeal, the director may prepare and submit a report to the
41 commission. The provisions in OAR 660-025-0160(3) and (4) apply.

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

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

45 (a) Establishes a work program; or

46 (b) Determines that no work program is necessary.

47 Stat. Auth.: ORS 197.040 & 197.633

1 Stats. Implemented: ORS 197.628 - 197.646
2 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
3 LCDD 4-2006, f. & cert. ef. 5-15-06
4

5 **660-025-0130**

6 **Submission of Completed Work Task**

7 (1) A local government must submit completed work tasks as provided in the
8 approved work program to the department along with any form required by the department. A
9 local government must submit to the department a list of persons who participated orally or in
10 writing in the local decision process or who requested notice of the local government's final
11 decision on a work task.

12 (2) After receipt of a work task, the department must determine whether the submittal
13 is complete.

14 (3) To be complete a submittal must be a final decision containing all required
15 elements identified for that task in the work program. A portion of a task or subtask may be
16 accepted as a complete submittal if the work program identified that portion of the task or
17 subtask as a separate item for adoption by the local government. Task submittals are subject
18 to the following requirements:

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

23 (b) If the local record exceeds 2,000 pages, a submittal must include adopted
24 ordinances and orders, findings, hearings minutes, written testimony and evidence, and a
25 detailed index listing items not included in the submittal. Items in the local record not
26 included in the submittal must be made available for public review during the period for
27 submitting objections under OAR 660-025-0140. The director or Commission may require
28 submission of any materials not included in the initial submittal;

29 (c) A task submittal of over 500 pages must include an index of all submitted
30 materials.

31 (4) A submittal includes only the materials provided to the department pursuant to
32 section (3) of this rule. Following submission of objections pursuant to OAR 660-025-0140,
33 the local government may provide written correspondence that is not part of the local record
34 which identifies material in the record relevant to filed objections. The correspondence may
35 not include or refer to materials not in the record submitted or listed pursuant to section (3) of
36 this rule. The local government must provide the correspondence to each objector at the same
37 time it is sent to the department.

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

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

1 (7) If a local government fails to submit a complete work task by the deadline set by
2 the director, or the commission, including any extension, the director must schedule a hearing
3 before the commission. The hearing must be conducted according to the procedures in OAR
4 660-025-0090(5).

5 Stat. Auth.: ORS 197.040 & 197.633

6 Stats. Implemented: ORS 197.628 - 197.646

7 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
8 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
9 cert. ef. 5-15-06

10
11 **660-025-0140**

12 **Notice and Filing of Objections (Work Task Phase)**

13 (1) After the local government makes a final decision on a work task, the local
14 government must notify the department and persons who participated at the local level orally
15 or in writing during the local process or who requested notice in writing. The local
16 government notice must contain the following information:

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

19 (b) The requirements listed in section (2) of this rule for filing a valid objection to the
20 work task; and

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

22 (2) Persons who participated at the local level orally or in writing during the local
23 process leading to the final decision may object to the local government's work task
24 submittal. To be valid, objections must:

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

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

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

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

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

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

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

44 (6) If valid objections are received or the department conducts its own review, the
45 department must issue a report. The report shall focus on the issues raised in valid objections
46 and issues of compliance identified by the department. The report shall identify specific work
47 tasks to resolve valid objections or department concerns. A valid objection shall either be

1 sustained or rejected by the department or commission based on the the statewide planning
2 goals and applicable statutes and administrative rules.

3 Stat. Auth.: ORS 197.040 & 197.633

4 Stats. Implemented: ORS 197.628 - 197.646

5 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
6 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
7 cert. ef. 5-15-06

8
9 **660-025-0150**

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

11 (1) The director may:

12 (a) Issue an order approving the completed work task;

13 (b) Issue an order remanding the work task to the local government including a date
14 for resubmittal;

15 (c) Refer the work task and recommendation to the commission for review and action;

16 or

17 (d) The director may issue an order approving portions of the completed work task
18 provided these portions are not affected by an order remanding or referring the completed
19 work task.

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

22 (3) The director's action in section (1) of this rule must be sent pursuant to section (2)
23 of this rule within 120 days of the date the department received the task submittal from the
24 local government unless the local government waives the 120-day deadline or the commission
25 grants the director an extension. The local government may withdraw the submittal, in which
26 case the 120-day deadline does not apply, provided the withdrawal will not result in the local
27 government passing the deadline for work task submittal in the work program and any
28 extension allowed in OAR 660-025-0130(7). If the director does not take action as prescribed
29 in this section:

30 (a) If the department does not receive valid objections to the work task pursuant to
31 OAR 660-025-0140(2), the work task shall be deemed approved and the department must
32 provide a letter to the local government certifying that the work task is approved;

33 (b) If the department received one or more valid objections to the work task pursuant
34 to OAR 660-025-0140(2), the director must refer the work task to the commission for review
35 and action.

36 (4) Appeals of director decisions are subject to the requirements of this section.

37 (a) A person who filed a valid objection may appeal a director's approval or partial
38 approval of a work task to the commission.

39 (b) The local government, a person who filed a valid objection, or other person who
40 participated orally or in writing at the local level during the local process on the work task
41 may appeal a director's remand or partial remand of a work task to the commission.

42 (c) Appeals of the director's decision must be filed with the department's Salem office
43 within 21 days of the date the director's action was mailed;

44 (d) A person appealing the director's decision must:

45 (A) Show that the person participated at the local level orally or in writing during the
46 local process;

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

4 (C) Suggest a specific modification to the work task necessary to resolve the alleged
5 deficiency.

6 (5) If no appeal to the commission is filed within the time provided by section (4) of
7 this rule, the work tasks approved by the director are considered acknowledged. If the
8 director's decision is to remand a work task and no appeal to the commission is filed within
9 the time provided in section (4) of this rule, the decision is final.

10 Stat. Auth.: ORS 197.040 & 197.633

11 Stats. Implemented: ORS 197.628 - 197.646

12 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
13 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
14 cert. ef. 5-15-06

15
16 **660-025-0160**

17 **Commission Review of Referrals and Appeals (Work Task Phase)**

18 (1) The commission shall hear appeals and referrals of work tasks according to the
19 procedures in OAR 660-025-0085.

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

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

26 (4) Persons who filed valid objections or an appeal, and the submitting local
27 government, may file written exceptions to the director's report within ten (10) days of the
28 date the report is mailed. The director may issue a response to exceptions and may make
29 revisions to the director's report in response to exceptions. A response or revised report may
30 be provided to the commission at or prior to its hearing on the referral or appeal. A revised
31 director's report does not require mailing 21 days prior to the commission hearing.

32 (5) The commission shall hear appeals based on the record unless the commission
33 requests new evidence or information at its discretion and allows the parties an opportunity to
34 review and respond to the new evidence or information. The written record shall consist of
35 the submittal, timely objections, the director's report, timely exceptions to the director's
36 report, the director's response to exceptions and revised report if any, and the appeal if one
37 was filed.

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

40 (a) Approves the work task or a portion of the task;

41 (b) Remands the work task or a portion of the task to the local government, including
42 a date for resubmittal;

43 (c) Requires specific plan or land use regulation revisions to be completed by a
44 specific date. Where specific revisions are required, the order shall specify that no further
45 review is necessary. These changes are final when adopted by the local government. The
46 failure to adopt the required revisions by the date established in the order shall constitute

1 failure to complete a work task by the specified deadline requiring the director to initiate a
2 hearing before the commission according to the procedures in OAR 660-025-0170(3);

3 (d) Amends the work program to add a task authorized under OAR 660-025-
4 0170(1)(b); or

5 (e) Modifies the schedule for the approved work program in order to accommodate
6 additional work on a remanded work task.

7 (7) If the commission approves the work task under subsection (6)(a) of this section
8 and no appeal to the Court of Appeals is filed within the time provided in ORS 183.482, the
9 work task shall be deemed acknowledged. If the commission decision on a work task is under
10 subsection (6)(b) through (e) of this section and no appeal to the Court of Appeals is filed
11 within the time provided in ORS 183.482, the decision is final.

12 Stat. Auth.: ORS 197.040 & 197.633

13 Stats. Implemented: ORS 197.628 - 197.646

14 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
15 LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. &
16 cert. ef. 5-15-06

17
18 **660-025-0170**

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

21 (1) The commission may direct, or, upon request of the local government, the director
22 authorize a local government to modify an approved work program when:

23 (a) Issues of regional or statewide significance arising out of another local
24 government's periodic review requires an enhanced level of coordination;

25 (b) Issues of goal compliance are raised as a result of completion of a work task
26 resulting in a need to undertake further review or revisions;

27 (c) Issues relating to the organization of the work program, coordination with affected
28 agencies or persons, or orderly implementation of work tasks result in a need for further
29 review or revision; or

30 (d) Issues relating to needed housing, economic development, transportation, public
31 facilities and services, or urbanization were omitted from the work program but must be
32 addressed in order to ensure compliance with the statewide planning goals.

33 (2) Failure to complete a modified work task shall constitute failure to complete a
34 work task by the specified deadline, requiring the director to initiate a hearing before the
35 commission according to the procedures in section (3).

36 (3) If a local government fails to submit its evaluation and work program, a decision
37 that no work program is necessary, or a work task by the deadline set by the director or the
38 commission, including any extension, the director shall schedule a hearing before the
39 commission. The notice must state the date and location at which the commission will
40 conduct the hearing. The hearing will be conducted pursuant to OAR 660-025-0085 and as
41 follows:

42 (a) The director shall notify the local government in writing that its submittal is past
43 due and that the commission will conduct a hearing and consider imposing sanctions against
44 the local government as required by ORS 197.636(2);

45 (b) The director and the local government may prepare written statements to the
46 commission addressing the circumstances causing the local government to miss the deadline

1 and the appropriateness of any of the sanctions listed in ORS 197.636(2). The written
2 statements must be filed in a manner and according to a schedule established by the director;

3 (c) The commission shall issue an order imposing one or more of the sanctions listed
4 in ORS 197.636(2) until the local government submits its evaluation and work program or its
5 decision that no work program is required, or its work task required under OAR 660-025-
6 0130, as follows:

7 (A) Require the local government to apply those portions of the goals and rules to land
8 use decisions as specified in an order issued by the commission,

9 (B) Forfeiture of all or a portion of the grant money received to conduct the review,
10 develop the work program or complete the work task,

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

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

16 Stat. Auth.: ORS 197.040 & 197.633

17 Stats. Implemented: ORS 197.628 - 197.646

18 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
19 LCDD 1-1998, f. & cert. ef. 4-15-98; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f.
20 & cert. ef. 5-15-06

21 22 **660-025-0175**

23 **Review of UGB amendments and Urban Reserve Area designations.**

24 (1) Land use decisions establishing or amending an urban growth boundary or urban
25 reserve area must be submitted to the department for review with the statewide planning goals
26 and related statutes and rules when not on a work program and:

27 (a) A metropolitan service district amends its urban growth boundary to include more
28 than 100 acres;

29 (b) A city with a population of 2,500 or more within its urban growth boundary
30 amends the urban growth boundary to include more than 50 acres; or

31 (c) A city or metropolitan service district designates or amends urban reserve areas
32 under ORS 195.145.

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

35 (3) The local government must provide notice of the proposed amendment according
36 to the procedures and requirements for post-acknowledgement plan amendments in ORS
37 197.610 and OAR 660-018-0020.

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

41 (5) Department and commission review and decision on the submittal from the local
42 government must follow the procedures and requirements for review and decision of a work
43 task submittal in OAR 660-025-0140 to 660-025-0160.

44 Stat. Auth.: ORS 197.040

45 Stats. Implemented: ORS 195.145, 197.626 - 197.646

46 Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04;
47 LCDD 4-2006, f. & cert. ef. 5-15-06

1
2 **660-025-0180**

3 **Stay Provisions**

4 (1) When a local government makes a final decision on a work task or portion of a
5 work task that is required by, or carries out, an approved work program, or if the local
6 government is a city with a population of 2,500 or more and either adopts a decision adding
7 more than 50 acres to its urban growth boundary or designates or amends urban reserve areas,
8 or a metropolitan service district that adopts a decision adding more than 100 acres to its
9 urban growth boundary or designates or amends urban reserve areas, interested persons may
10 request a stay of the local government's final decision by filing a request for a stay with the
11 commission. In taking an action on a request to stay a local government's final decision on a
12 work task, the commission must use the standards and procedures contained in OAR chapter
13 660, division 1.

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

19 Stat. Auth.: ORS 197.040

20 Stats. Implemented: ORS 197.628 - 197.646

21 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDD 3-2000, f. & cert. ef. 2-14-00;
22 LCDD 4-2006, f. & cert. ef. 5-15-06

23
24 **660-025-0210**

25 **Updated Planning Documents**

26 (1) Pursuant to ORS 195.025 and 195.040 and the legislative policy described in ORS
27 197.010, each local government must file two complete and accurate copies of its
28 comprehensive plan and land use regulations bearing the date of adoption (including plan and
29 zone maps bearing the date of adoption) with the department following completion of
30 periodic review. These materials may be either a new printing or an up-to-date compilation of
31 the required materials or upon approval of the department, an up-to-date copy on computer
32 disk(s) or other electronic format.

33 (2) Materials described in section (1) of this rule must be submitted to the department
34 within six months of completion of the last work task.

35 (3) The updated plan must be accompanied by a statement signed by a city or county
36 official certifying that the materials are an accurate copy of current planning documents and
37 that they reflect changes made as part of periodic review.

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

40 Stat. Auth.: ORS 183 & 197

41 Stats. Implemented: ORS 197.190, 197.270 & 197.628 - 197.646

42 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
43 LCDD 4-2006, f. & cert. ef. 5-15-06

44

1 **660-025-0220**

2 **Computation of Time**

3 (1) For the purposes of OAR chapter 660, division 25, periodic review rule, unless
4 otherwise provided by rule, the time to complete required tasks, notices, objections, and
5 appeals shall be computed as follows. The first day of the designated period to complete the
6 task, notice, objection or appeal shall not be counted. The last day of the period shall be
7 counted unless it is a Saturday, Sunday or legal holiday recognized by the State of Oregon. In
8 that event the period shall run until the end of the next day that is not a Saturday, Sunday or
9 state legal holiday.

10 (2) When the period of time to complete the task is less than seven (7) days,
11 intervening Saturdays, Sundays or state legal holidays shall not be counted.

12 Stat. Auth.: ORS 197.040

13 Stats. Implemented: ORS 187.010, 187.020, 197.628 - 197.650

14 Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95;
15 LCDD 4-2006, f. & cert. ef. 5-15-06

16 **660-025-0230**

17 **Applicability**

18 (1) Amendments to this division apply as follows:

19 (a) Local governments in periodic review that have not submitted an evaluation and
20 work program, or decision that no work program is required, when rule amendments become
21 effective shall apply the new requirements to the evaluation and work program or decision
22 than no work program is required;

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

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

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

32 (2) Amendments to OAR 660-025-0030 and 660-025-0035(3) and (4) become
33 effective July 1, 2007.

34 Stat. Auth.: ORS 197.040-197.245

35 Stats. Implemented: ORS 197.628 - 197.646

36 Hist.: LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 4-2006, f. & cert. ef. 5-15-06
37

38 **660-025-0250**

39 **Transfer of Matters to the Land Use Board of Appeals**

40 (1) When the department receives an appeal of a director's decision pursuant to OAR
41 660-025-0150(4), the director may elect to transfer a matter raised in the appeal to the Land
42 Use Board of Appeals (board) under ORS 197.825(2)(c)(A).

43 (2) Matters raised in an appeal may be transferred by the director to the board when:

44 (a) The matter is an urban growth boundary expansion approved by the local
45 government based on a quasi-judicial land use application and does not require an
46 interpretation of first impression of statewide planning Goal 14, ORS 197.296 or ORS
47 197.298; or

1 (b) (A) The matter alleges the work task submittal violates a provision of law not
2 directly related to compliance with a statewide planning goal;

3 (B) The appeal clearly identifies the provision of the task submittal that is alleged to
4 violate a provision of law and clearly identifies the provision of law that is alleged to have
5 been violated; and

6 (C) The matter is sufficiently well-defined that it can be separated from other
7 allegations in the appeal.

8 (3) When the director elects to transfer a matter to the board, notice of the decision
9 must be sent to the local jurisdiction, the appellant, objectors, and the board within 60 days of
10 the date the appeal was filed with the department. The notice shall include identification of
11 the matter to be transferred and explanation of the procedures and deadline for appeal of the
12 matter to the board.

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

14 Stat. Auth.: ORS 197.040

15 Stats. Implemented: ORS 197.825

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

EXHIBITS

FORM PR 1

PERIODIC REVIEW WORK TASK SUBMITTAL FORM

This form must accompany ALL PRODUCTS SUBMITTED for completion of a work task identified on an approved periodic review work program to the DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, Salem office. (See OAR 660-025-0130) and see Page 3 for submittal requirements.

WAS THIS TASK GRANT-FUNDED? YES ___ NO ___ GRANT NUMBER: _____

Please complete the following:

JURISDICTION: _____ DATE: _____

LOCAL CONTACT: _____
Name Title

ADDRESS: _____ CITY & ZIP CODE: _____

PHONE: _____ FAX: _____

EMAIL: _____

___ COMPLETED WORK TASK NO: _____

Task Title or Description:

For a submittal to be considered complete, a work task must include all of the following: (1) the final product as specified on the work program. This will usually be an adopted, signed ordinance updating the comprehensive plan and/or land use regulations; (2) the record of the local government proceedings pursuant to OAR 660-025-0130; (3) notice of the final decision (see reverse side for example of a task notification letter); and (4) a list of persons who requested notice of final decision in writing, or check below.

___ PARTIALLY COMPLETED TASK OR COMPLETED SUBTASK NO: _____

Task Title or Description:

Only submit a partially completed task or subtask if the work program identifies it as an item for adoption separately from the rest of the task. For a submittal to be considered complete, a partial work task or subtask must have all of the following: (1) the product as specified on the work program. This will usually be an adopted, signed ordinance updating the comprehensive plan and/or land use regulations; (2) the record of the local government proceedings pursuant to OAR 660-025-0130; (3) notice of the final decision (see reverse side for example of a work task notification letter); and (4) a list of persons who requested notice of final decision in writing, or check below.

**Send To: Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street, N.E. Suite 150
Salem, Oregon 97301-2540**

This sample satisfies requirements for local government notice of completed periodic review work tasks in OAR 660-025-0140.

Adapt this sample (*example language in italics*) to:

- 1. describe your work task,**
- 2. explain the local procedures for examining a copy of the action, and**
- 3. identify the DLCD staff person responsible for you jurisdiction's periodic review.**

July 1, 2006

NOTICE OF PERIODIC REVIEW WORK TASK ADOPTION

On June 25, 2006, River City made its final decision on periodic review Task 1. This work task *amended the city's Economic Development Element of the comprehensive plan*. In reaching this decision, the city updated the comprehensive plan and zoning ordinance by *including an Economic Opportunities Analysis and revising the downtown commercial design standards*.

You may review a copy of this decision at the planning department office. The office is at *One Main Street, River City, Oregon 97000*. Office hours are *8:00 a.m. to 5:00 p.m., Monday through Friday*. You may purchase a copy of the decision for \$2.00 at the planning department or by mailing your request for Task 1 along with the payment. Call *Jane at 503-555-1111*, if you have questions.

If you believe the city did not satisfactorily complete the work task, or that the work task does not comply with the statewide planning goals, you may object to DLCD. To file an objection, you must do three things. First, address these requirements in your objection:

1. Show how you participated in the city's periodic review process, either by testifying at a public meeting or by sending written comments about the work task, and
2. Explain your objection to the action taken by the city. Be specific and try to relate the objection to a specific law or rule that has been violated, and
3. Recommend a specific change to the work task that would resolve your objection.

Second, submit the written objection(s) to:

Attention: Periodic Review Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

DLCD must receive the objection no later than 21 days from the date the notice was mailed by the local government (i.e., postmark date on the envelope). [*or: DLCD must receive the objection by Jul y XX, 2006.*] Third, send a copy of the objection to the River City Planning Department.

See Oregon Administrative Rule Chapter 660, Division 25 for specific requirements for participating in periodic review. Note especially OAR 660-025-0140 regarding objections to a work task submittal. http://arcweb.sos.state.or.us/rules/OARS_600/OAR_660/660_025.html

If you have questions about DLCD's review of this work task, please contact the city's DLCD Regional Representative: [*name, phone number and email address*]

Submittal requirements required for all Periodic Review Work Tasks

Any submittal that is missing any element will be return to the jurisdiction.

Please send to the Department of Land Conservation and Development the following:

1. A CD and one hard copy of the complete work task to Larry French, Periodic Review Specialist; and a CD and one hard copy to your regional representative, include the following to be a complete work task submittal, **any submittal minus any of the parts below will be returned:**

2. PR Submittal Form 1 plus the following:

3. PR Notice to Public on objection rights;

4. Participation list of persons who participated in orally or in writing; and

5. List of Persons requesting copy of ordinance.

6. **Any task submittal over 500 pages MUST INCLUDE AN INDEX OF ALL SUBMITTED MATERIALS;**

And the following from OAR 660-025-0130---->

7A. If the local record does not exceed 2,000 pages, a submittal must include the entire local record, including but not limited to adopted ordinances and orders, studies, inventories, findings, staff reports correspondence, hearings minutes, written testimony and evidence, and any other items specifically listed in the work program.

OR

7B. if the local record exceeds 2,000 pages, a submittal must include adopted ordinances and orders, findings, hearing minutes, written testimony and evidence, and detailed index listing items not included in the submittal. Items in the local record not included in the submittal must be made available for public review during the period for submitting objections under OAR 660-025-140. The Director or Commission may require submission of any materials not included in the initial submittal.

8. Send all of the parts to me, when you have it ready.

Note: There is no 5 day rule in the PR process.

Please give me a call if you have any questions at the number listed below.

Thank you

Larry J. French
Grants Administrative Specialist
Periodic Review Specialist and
635 Capitol Street NE Suite 150
Salem OR 97301-2540
Phone 503-373-0050 x283
Fax No. 503-378-5518
Email: Larry.French@state.or.us