

**DISCUSSION DRAFT OF URBAN AREA BOUNDARY REVISION POLICY**  
**For October 15, 2018 Workshop**

This discussion draft policy framework is solely the work of the Commission staff. The staff has not shared this with any other person. This is only a discussion draft intended to spark substantive discussion. Workshop participants will be involved in drafting the policy text, which may involve edits, deleting or rewriting sections, or a complete rewrite.

The discussion draft policy framework is divided into three types of revisions, each of which would require a different burden of meeting the “demonstrable need” criterion and the other 4(f) criteria. This discussion draft does not define the burden to meet the 4(f) criteria. If the workshop participants agree to use this framework of three types of revisions, we can discuss and draft the appropriate burdens.

**Revision Type 1: Land Trade Revision**

(1) A land trade revision does not increase the overall size of an urban area as measured by acres. The overall size of an urban area may become smaller as a result of a land trade revision.

(a) A land trade revision may involve non-contiguous land and shall not revise more than one percent of the overall size of the urban area or 10 acres, whichever is less, unless the land trade involves moving government-owned land currently inside an urban area into the general management area, or the land trade is solely necessary as a means to revise the urban area boundary to be coterminous with the exterior boundary of the National Scenic Area and adjacent to land outside the National Scenic Area that is currently planned for and currently available for use as urban land.

(b) A land trade revision shall not reduce the size of an existing parcel in the general management area that meets the minimum parcel size to a size below the minimum parcel size for the area of the parcel remaining in the general management area.

(2) A land trade revision shall involve only a revision between land in an urban area and land in the general management area. Land in the special management area is not entitled to be moved into an urban area through a land trade, unless the land currently in the urban area is owned by the U.S. Forest Service.

(3) Standards for meeting the 4(f) criteria (presumably a relatively easy test) . . .

(4) After the Commission approves a land trade revision, the urban area may not seek another land trade for five-year period as measured from the date the land moved into the urban area is incorporated into the applicable comprehensive plan and zoning ordinance, and is available for development. Additionally, the land from the prior trade shall be developed before the Commission will approve another land trade.

(5) Land moved into an urban area shall have no sensitive scenic, cultural, natural and recreation resources as determined by review of the anticipated development using the standards in the Management Plan for review of scenic, cultural, natural, and recreation resources. Land moved into the general management area shall be undeveloped or have minimal development or uses that generally comply with the land use and resource protection standards in the Management Plan and do not conflict with adjacent or nearby land within the special management area or general management area. Conflicts include, but are not limited to, odor, noise, light and risk of air or water pollution.

(6) Land added by a land trade revision may be used for any residential or employment needs, except the land shall not be used for industrial purposes or for uses that would conflict with adjacent special or general management area land. Conflicts include, but are not limited to, odor, noise, light and risk of air or water pollution.

(7) Development of land added by a land trade revision shall be by development agreement with the applicable permitting city or county and that includes the Columbia River Gorge Commission as a party to the development agreement with full rights to enforce the development agreement in perpetuity, and with the right to designate a successor to its enforcement right if the Commission is ever disestablished.

### **Revision Type 2: De Minimis Revision**

(1) A de minimis revision is a revision that that increases the size of the urban area by no more than one percent of the size of the urban area or by no more than 20 acres, whichever is less. The purpose of a de minimis revision is to make land within the urban area function more efficiently and effectively for its planned use by siting roads and infrastructure lines for public facilities and services or by making the urban area coterminous with nearby property lines or natural or built features or is solely necessary as a means to revise the urban area boundary to be coterminous with the exterior boundary of the National Scenic Area and adjacent to land outside the National Scenic Area that is currently planned for and currently available for use as urban land.

(a) A de minimis revision may involve non-contiguous land

(b) A de minimis revision shall not reduce the size of an existing parcel in the general management area that meets the minimum parcel size to a size below the minimum parcel size for the area of the parcel remaining in the general management area or below 40 acres in the special management area.

(2) The U.S. Forest Service shall also approve a de minimis revision that involves a revision of a special management area boundary.

(3) Standards for meeting the 4(f) criteria (presumably a mid-grade test) . . .

(4) The Commission shall approve only one de minimis revision for each urban area.

(5) Land moved into an urban area shall have no sensitive scenic, cultural, natural and recreation resources as determined by review of the anticipated development using the standards in the Management Plan for protection of scenic, cultural, natural, and recreation resources. Land moved into the general management area or a special management area shall be undeveloped or have minimal development or use that does not conflict with adjacent or nearby land within the special management area or general management area. Conflicts include, but are not limited to, odor, noise, light and risk of air or water pollution

(6) For a de minimis revision in which land moved into a special management area results in a parcel of less than 40 acres in size in the special management area, the landowner(s) shall acknowledge and consent to the restrictions in the National Scenic Area Act against major development actions on parcels less than 40 acres in size.

(7) Land added by de minimis revision shall not be used for any residential or employment needs or for uses that would conflict with adjacent special or general management area land. Conflicts include, but are not limited to, odor, noise, light and risk of air or water pollution.

(8) Development of land added by de minimis revision shall be by development agreement with the applicable permitting city or county and that includes the Columbia River Gorge Commission as a party to the development agreement with full rights to enforce the development agreement in perpetuity, and with the right to designate a successor to its enforcement right if the Commission is ever disestablished. For land originally designated GMA and land assigned a GMA designation through section 8(o) of the National Scenic Area Act, the Gorge Commission shall be a party to the development agreement. For land originally designated SMA, the U.S. Forest Service shall be a party to the development agreement.

### **Revision Type 3: Full Revision**

(1) A full revision is a revision to an urban area boundary that increases the overall size of an urban area by more than one percent of the size of the urban area or more than 20 acres. The application shall satisfy the following criteria. The criteria from section 4(f)(2)(A) through (D) of the National Scenic Area Act are numbered below as (2), (3), (4), and (5). The text below each criterion is the Commission's statement of how it interprets and how it will apply the criterion to a specific application, and what analysis is necessary to demonstrate compliance.

(2) Interpretation and Application of Criterion 1: A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan

- (a) This is an either-or criterion. An applicant can demonstrate that its application satisfies this criterion by demonstrating need for additional land based either on long range population growth in the urban area or economic need of the urban area.

- (b) An applicant shall demonstrate need using the methods, formulas, factors, and specified ranges required by the Oregon Land Conservation and Development Commission for revising urban growth boundaries in compliance with Oregon Statewide Planning Goal 14. Applicants shall use the requirements of Oregon Administrative Rule chapter 660, division 038 as modified by subsection (c) below. This applies to both Oregon and Washington urban areas.
- (c) National Scenic Area factors . . .
- (d) The applicant shall ensure the land revised into an urban area and land within an existing urban area used pursuant to subsection (5) shall be used for the same use for a period of not less than 30 years beginning with occupancy of the use. Prior to changing the use of the land, the applicant shall apply to the Gorge Commission to revise the use of the land. The use of the land shall comply with subsection (4). If the use of the land cannot comply with subsection (4), the land revised into the urban area shall revert back to its original GMA or SMA designation, including land use designation, etc. at the time of the original application.
- (e) Development of land added by a full revision shall be by development agreement with the applicable permitting city or county and that includes the Columbia River Gorge Commission as a party to the development agreement with full rights to enforce the development agreement in perpetuity, and with the right to designate a successor to its enforcement right if the Commission is ever disestablished. For land originally designated GMA and land assigned a GMA designation through section 8(o) of the National Scenic Area Act, the Gorge Commission shall be a party to the development agreement. For land originally designated SMA, the U.S. Forest Service shall be a party to the development agreement.

(3) Interpretation and Application of Criterion 2: Revision of urban area boundaries is consistent with the standards established in Section 6 and the purposes of the National Scenic Area Act;

- (a)
- (b)

(4) Interpretation and Application of Criterion 3: Revision of urban area boundaries will result in maximum efficiency of land uses within and on the fringe of existing urban areas;

- (a)
- (b)

(5) Interpretation and Application of Criterion 4: Revision of urban area boundaries will not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(a)

(b)