

Urban Growth Boundaries

Urban growth boundaries (UGBs) are an increasingly popular approach to growth management. Oregon, Washington, and Tennessee mandate their use; Florida encourages them; and Maryland and California have been doing them for decades. In South Carolina, urban growth boundaries, or extraterritorial jurisdiction is permitted under State Planning Enabling legislation, but there are no state or local statutes to require urban growth boundaries.

What is it?

An urban growth boundary is a line drawn between urban and rural lands defining the limits to which the urban area will grow. Within the urban growth boundary the local government will support new development at urban densities. This will encourage higher density and infill development within the urban growth boundary, while helping to maintain the rural character of areas lying outside the boundary. Regulatory techniques such as zoning are used to prevent urbanization of the rural lands outside the growth boundary.

In theory, the UGB is a rational way to phase the expansion of urban growth; it promises to provide discrete amounts of contiguous and relatively compact development as demand warrants. In some places, a tiered approach is mapped and future expansions of the UGB are identified to broadcast the community's long-term intentions (as in Florida's Sarasota and Palm Beach counties and in San Diego County, California).

How to do it?

1. Involve key stakeholders. Decide which groups or individuals in your community are most likely to be affected by (or might oppose) adoption of an urban growth boundary and invite them to participate in the process of developing the boundary. It is particularly important to seek the involvement and cooperation of any separate agencies or authorities that provide critical public facilities and services within your jurisdiction. An effective approach would be to appoint an advisory committee of these key stakeholders to guide development and ongoing implementation of the local urban growth boundary.

2. Establish desired development patterns. Review the future land use section of your community's comprehensive plan to identify the development patterns (types and locations of development) that your community is seeking to achieve. Also review the plan to identify land areas that should be set aside from development in order to protect critical environmental resources such as scenic areas, historic properties or prime agricultural lands. If you feel that the comprehensive plan does not provide enough guidance on future development patterns, you may want to utilize a community involvement process and amend the plan to reflect preferred development patterns.

3. Project expected population growth and development. Based on market trends and population projections for your community, project the amount of land that will be required to accommodate growth over the next 5 to 7 years.

4. Delineate the urban growth boundary. Factor desired development patterns, likely service areas and projected land requirements into drawing an urban growth boundary for your community. Determine how many acres of vacant land are needed to accommodate future population and growth. Draw the boundary so that urban/high density development will not be extended into areas that have been set aside from development.

5. Officially adopt the boundary. Be sure to hold the required public hearings before adoption. Include the boundary on the maps used for land use and development decisions. This will give the boundary official legal status and, for development review purposes, will make it easy to determine whether any proposed new developments are located outside the urban growth boundary.

6. Periodically re-evaluate the boundary. Since the urban growth boundary is drawn to accommodate development over a 5 to 7-year period, it will be necessary to periodically re-evaluate and expand the boundary as necessary to permit ongoing gradual expansion of the urbanized area.

Things to consider before using this tool

- Care must be taken in drawing the urban growth boundary. If the urban growth area is too small, the lack of adequate land for new development will push up the cost of new housing and other developments. This will put your community at a disadvantage in attracting new development and could shift development to neighboring cities or counties. On the other hand, if the urban growth boundary is drawn too large, the boundary may not have the desired effect of discouraging leapfrog developments.
- Ensure that your local comprehensive plan is updated to reflect the urban growth boundary and to include strong policy statements supporting use of the boundary. This will strengthen the legal status of your urban growth boundary. It is also important to check that your urban growth and development projections do not conflict with neighboring jurisdictions and local governments in the area.
- Be sure to update your land use regulations to accommodate the new infill development that will result from implementation of the urban growth boundary. If land use codes are not adjusted to permit greater densities and mix of uses, your regulations will be working at cross-purposes and will not be effective in guiding local development patterns as desired.

- When other local governments control areas outside the urban growth boundary, their land use regulations may not support maintenance of the boundary. In such cases you will want to negotiate with them to promote consistency of land use policies.

A few caveats

In a smart growth world, forecasts tend to be policy-driven rather than market-driven. In other words, jurisdictions with growth management targets can simply say, “This is as much as we choose to grow right now for various reasons,” regardless of market pressures. Although smart growth supporters might say they are simply “managing growth” and accommodating their fair share in the right way, rather than controlling or stopping it, in reality, this line is blurred. To be of use, the UGB framework requires realism about the local market, even if a later decision is made to accommodate only a portion of anticipated growth. This argues for a reality-based regional forecasting framework within which a jurisdiction’s projections are set. Off-the-shelf projections that are based on econometric models—and that disregard local land-use policies and land supply—provide this kind of framework.

Frequently Asked Questions

Q. What Are Growth Boundaries?

A. Urban growth boundaries are a tool that can be used to build on and implement a comprehensive plan. A growth area is a geographic delineation, or boundary line, within which development at higher densities is encouraged and infrastructure (roads, water, sewer) to serve such development is provided for or planned. Outside of this area, land is planned to remain in predominantly rural (rural and agricultural and natural features areas) uses. Users of this tool must commit to providing for the infrastructure, including water, sewer, roads, schools and parks that will be needed to support development within the area. Growth areas are not a tool to stop development; rather, they are used to geographically indicate where more development is appropriate and public

Q. What is the Experience With Growth Boundaries in Other Areas?

A. Oregon created urban growth boundaries as part of its state and regional land use policies. Oregon drew boundaries around each of its cities in 1973, with streamlined permitting and public infrastructure provided within those boundaries. However, many other states and regions now use growth boundaries as a way of controlling taxes and traffic and other costs of sprawl by targeting development to areas where infrastructure exists or is planned for. The first state to use a growth boundary was actually Kentucky, which drew a (still-enforced) boundary around Lexington in 1958 to protect the Bluegrass Country outside the city. In Pennsylvania, Lancaster County uses growth boundaries as one tool in its comprehensive plan.

Q. What Are the Advantages of Growth Boundaries?

A. Growth Boundaries: Ensure that adequate infrastructure will be available where growth is targeted; Encourage revitalization and reinvestment in developed areas; Make infrastructure investments and the tax dollars that support them more cost-efficient by concentrating them in smaller areas; Add certainty to the development process by clearly delineating where development will and will not be provided with public infrastructure; Promote affordable housing in close proximity to public and community facilities and services by providing sufficient land within boundaries for a variety of residential types and densities; Stimulate community development patterns that support more accessible public transit; Relieve development pressure on rural lands; Enable accessible retreats to rural lands from urban centers; and Encourage long-term strategic thinking about a community's future.

Q. Do Growth Boundaries Increase Housing Prices?

A. Where supported by appropriate development densities, urban growth boundaries will not increase housing prices. In fact, if builders were to pass on savings, the prices could be lowered. 10,000 Friends of Pennsylvania's recent study on the costs of sprawl notes that compact forms of growth can result in savings of up to 8% of the cost of housing, provided that the absolute supply of the number of housing units is not constrained. (*The Costs of Sprawl in Pennsylvania*, p.26.)

The Fannie Mae Foundation researched this issue and found that growth boundaries should not increase housing prices if they are implemented correctly. Developers and citizens are justifiably concerned that urban containment policies could slow growth and cause house prices to rise sharply. We emphasize the word *could* because these policies *should not* have that effect. While inflexible growth constraints can cause artificial land scarcities and reduce affordable housing, emerging UGB models are characterized by flexibility intended to prevent, or at least mitigate, market distortions. In addition, "Higher density housing is the most important element in the success of any urban containment strategy." ("What Does Smart Growth Mean for Housing?" *Housing Facts and Findings*, Vol. 1, No. 3 Fall 1999, p.4.)

Q. Will Growth Boundaries Reduce the Amount of Affordable Housing?

A. There is no automatic or direct relationship between growth boundaries and affordable housing. Predictions that affordable housing will suffer as growth is managed are based on the belief that the price of housing will necessarily rise where the finite resource, developable land, is made less available. This is not true, however, where new growth is encouraged within designated areas at the same time that new development is discouraged on the fringe. In fact, where development is concentrated and higher density housing is built with smaller lots, the land will be better used and housing located on smaller lots in areas with existing infrastructure will permit lower sales prices.

Borrowing an example from the National Lands Trust Workbook: "When a developer is permitted 15 lots instead of 10, the land costs for those additional five lots is zero, which means that new homes on them can be deeply discounted and sold for a price that basically reflects the actual construction cost, plus associated profits." ("Growing Greener: Putting Conservation into Local Codes; Encouraging affordable housing in conservation developments" National Lands Trust, February 2000 explaining benefits of density bonuses.) The goal of growth boundaries is to provide an adequate supply of diverse and affordable housing for sale and rent in locations consistent with land use goals.

Q. Will Growth Boundaries Increase Traffic Congestion?

A. By concentrating new development, we will allow residents to make better use of public transportation and reduce our automobile dependence.

Q. Do Growth Boundaries Create More Sprawl Inside the Growth Boundary?

A. There are good and bad ways of implementing good policies. It is certainly possible for a municipality to permit low-density zoning and allow auto-oriented strip development within a large growth boundary. It is up to the local officials to implement good planning, zoning and design tools, all of which are available, to ensure this does not happen.

Model Urban Growth Boundary Ordinance Element

1. Intent

A. Intent: The Urban Growth Boundary (UGB), as shown on the Official Map of **[Specify Local Government]** and described in the Comprehensive Plan, is intended to define the limit to which urbanization should occur. The UGB is designed to encourage compact, efficient development and discourage development that is more costly and consumes natural resources. The UGB also helps to ensure that urban services provided by **[Specify Governing Body]** to existing neighborhoods will not be reduced by service demands of new development in rural areas.

B. Modifications of the UGB: Significant modifications to the UGB, or significant modifications to the comprehensive plan text describing the UGB, will only be considered in the context of a major, comprehensive update of the comprehensive plan which fully considers all of the implications of expanding the limits of urbanization. Significant modifications will not be considered on a case-by-case basis as part of an application for subdivision, rezoning, conditional use permit, or variance. Minor modifications to the UGB will be considered only under the standards and process for a general plan amendment as outlined in **[Specify Section]** of this ordinance.

2. Modification Process

A. General Plan Amendment. Any request or application that would result in a modification in the UGB definition or location as shown on the Official Map, including requests to change non-urban land use designations to urban land use designations, will be considered to be a request for a general plan amendment and must be considered under the modification process outlined in this Chapter.

B. Date for Filing General Plan Amendment Requests. Any request or application for a general plan amendment to modify the UGB definition or location shall be filed by December 1 to qualify for hearing during the annual review process of the comprehensive plan for the succeeding year. **[Specify local review process]**

C. Determination of a Minor Modification. If, within ninety days after the request or application is filed, the Planning Director determines the request or application clearly qualifies as a minor modification based on a strict interpretation of the criteria set forth in Section **[XXX].2.E**, the modification may be considered during the annual review of the comprehensive plan. **[Local Government should establish timeframe in keeping with S.C. State Planning Enabling Legislation.]**

D. Determination of a Significant Modification. If, within ninety days after the request or application is filed, the Planning Director determines the request or application does not qualify as a minor modification based on a strict interpretation of the criteria set forth in Section [XXX].2.E., the modification is to be considered a significant modification to the UGB and a hearing shall be set pursuant to Section [XXX].2.G. **[or in compliance with local hearing requirements]**

E. Criteria – Minor Modification. To qualify as a minor modification, a proposed modification to the UGB must strictly meet all of the following criteria:

1. Be no larger than five acres in size; and
2. Be contiguous to lands with an urban designation; and
3. Be proposed for development with a single development plan adhering to all the requirements of the urban zone under which the land will be designated after the modification; and
4. There is no presence of protected waterways, steep slopes, sensitive natural areas, protected species, or other significant natural features.

(Section E., criteria for a minor modification, should be very clear and narrow in scope. The criteria are designed to discourage requests for changes in the UGB. The result of applying the criteria should be that most requests receive a high level of scrutiny. Granting many modifications to a UGB can threaten the perception of the line as a real limit. It can also set precedents for changing the line regardless of the criteria set forth in the ordinance. Criteria number E.4. should be modified to reflect the important natural resources present in your community. A community may also include criteria that excludes all proposed modifications within particular zones, such as a river protection zone.)

F. Minor Modification – Change to Official Map. If the Planning Director determines the request or application is a minor modification based on a strict interpretation of the criteria set forth in Section [XXX].02.E., the following process shall be undertaken to modify the UGB and the Official Map:

1. The Planning Director shall issue a determination letter clearly stating the bases upon which the determination of a minor modification was made;
2. The UGB line on the Official Map shall be modified reflecting the change, the original UGB line shall be retained as a dashed line, and a note shall be recorded on the map stating the date of the determination letter.
3. The subject land of the modification shall be officially rezoned, through a rezoning process, to reflect the new zoning district within which it lies.

G. Significant Modification

1. Generally Discouraged. Significant modifications to the UGB are strongly discouraged in order to ensure the long term stability of the boundary by directing urban growth to areas of the community that are urbanized or planned for urbanization.

2. Hearing Issues. If the Planning Director determines that the request or application is a significant modification, the Planning Director shall set hearing before the Governing Body on the following issues:

- a. Whether the request or application qualifies as a minor modification;
- b. Whether a comprehensive update to the comprehensive plan is currently underway or scheduled, and whether to refer the application to that process based on the criteria set forth in [XXX].02.G.5 ; or
- c. Whether a comprehensive update of the comprehensive plan shall be undertaken with the application referred to that process.

3. Notice. Notice of the time and place of the hearing by one publication in a newspaper of general circulation in the community at least **XX** days before the date set for the hearing. **[Specify local notice requirements]**

4. Denial. The request or application for a significant modification to the UGB shall be denied unless the Governing Body:

- a. Determines that the request or application is a minor modification; or
- b. Refers the application to an existing comprehensive update of the comprehensive plan; or
- c. Initiates a comprehensive update of the comprehensive plan during which the significant modification requested will be considered.

5. Criteria for Referral to Comprehensive Plan Update. The Governing Body shall refer a significant modification to a comprehensive update of the comprehensive plan only if the Governing Body makes one of the following findings:

- a. A comprehensive update of the general plan is being scheduled for reasons independent of this application; or
- b. The applicant has demonstrated that without the modification, an owner would be denied all economically viable use of the land.

Proving economic hardship is not to be considered proof of a denial of all economically viable uses.

(The rezoning requirement noted in subsection F.3. insures that the modification will fall under the public notification requirements for a rezoning. The rezoning

also guarantees that the development of the land will comply with all the requirements of an urban zone. The criteria for referring a request or application for a significant modification to a comprehensive plan update (section G.5.a-b.) are extremely limited. This reflects the statement that modifications are strongly discouraged. If the criteria for referral are less restrictive, more modifications will be requested and possibly granted, thus decreasing the effectiveness of the boundary. The distinction between denial of economic viability and economic hardship reflects the current law on takings of private property. If a regulation results in economic hardship it is not a taking of property by a government. If a regulation results in the denial of all economically viable uses, it may result in a taking and therefore should be remedied by modifying the urban growth boundary.

The denial of all economically viable use through the establishment of an urban growth boundary, however, is unlikely since rural uses are still allowed on land outside the boundary.)