

CHAPTER 11
GOAL 11: PUBLIC FACILITIES AND SERVICES

SECTION 11.0 PUBLIC FACILITIES AND SERVICES GOAL

To coordinate and arrange for the provision of public facilities and services in an efficient, orderly, and timely manner.

SECTION 11.1 PUBLIC FACILITIES AND SERVICES BACKGROUND AND DISCUSSION

11.1.100 MUNICIPAL WATER

The City of Umatilla has three wells as the source of its water supply: one in the McNary area and two near the central part of the City. Supply of the City water system is summarized as follows:

Table 11.1-1 Existing Umatilla City Water Supply Sources

Well	GPM	Storage
McNary Area	2500*	.125 MG
City of Umatilla	1350**	.65 MG

Note: GPM = gallons per minute; MG = million gallons

* CH₂M-Hill, Community Impacts of Alumax, p. 135.

** *Ibid.*, p. 135.

The water system is also broken down into three service areas. One is the lower elevations (below elevation 389) of the City and the second is near the existing reservoirs between elevations 389 and 491. The third service area is at McNary and is served by elevated storage.¹

The determination of demand is based on water metering records from 1972-1975 for Umatilla and McNary. Combining these system demands for the maximum year (1974-1975) gives the following results:²

- The annual average demand is 596,550 gpd
- The annual average demand per capita is 445 gallons per capita per day (gpcd)
- The maximum day demand is estimated at 1,547 gpcd

Based on the maximum day demand of 1,547 gpcd, the existing water system could support approximately 3,584 people on a maximum demand day.

A more complete analysis and inventory of the municipal water system is available at the City Hall in the Umatilla Water System Study, 1977.

¹ CH₂M-Hill, City of Umatilla Water System Study, p. 31.

² *Ibid.*, p. 7.

The problems associated with supplying water to Umatilla and the surrounding area have been examined in several reports during the past few years. These reports have included: Regional Water System Feasibility Study, 1974, and Ground Water Conditions and Declining Water Levels in the Butter Creek Area, 1975. All three reports discuss the declining groundwater resource and mention the possibility of obtaining water from the Columbia River.

11.1.110 *Municipal Water Needs*

A supplement to the City of Umatilla Water System Study recommended that a hydro-geological survey be conducted to ascertain the feasibility of a Ranney Collector. The quality of water that could be obtained by this method was found to be unsuitable. Development of a new deep well began in 1978 and appropriation of Columbia surface water is being explored. Appropriation of water from the Columbia River has been requested from the State Water Resources Department in the form of a water right application for municipal use. Currently, there are no limitations on the quantity of water that could be appropriated from this source.

Future growth and development of the City will require not only additional water supply, but also additional storage capacity. The facilities presently planned for will support a population of approximately 14,000 people, and commensurate commercial/industrial growth. If the per capita water consumption can be reduced, the system would support a higher population. The present water storage facility, located on the south hills, limits future development to elevations below 491 unless pumping is employed. Storage facilities under construction will be located at 500 and 650 foot elevations. Pumping will be continued to allow development of the south hills consistent with the Comprehensive Plan. The development of new water storage facilities near Bensel and Power Line Roads has been discussed (see *Figure 11.1-1*). Water distribution is being increased as part of the reservoir construction.

11.1.200 *SANITARY SEWER*

The Umatilla Sewage Treatment Plant, constructed in 1952, was treating .17-.18 MGD during 1976 with a capacity of .25 MGD which is 72% capacity. Based on these figures, the plant treats .82 gpcd, and at this rate would be able to support approximately 3,048 people. At the current rate of growth for the City of Umatilla, sewage treatment plant capacity became a limiting factor to area growth during 1977.

Additional inventories of the sanitary sewer system can be found in the City of Umatilla Facilities Plan, 1977. A new sewage treatment plant is currently under design with local funding. The new plant will occupy approximately 6.5 acres at the present plant location. The capacity of the new plant will be approximately 10,000 people with additional area for plant expansion. System improvements considered in the facilities study include collectors and interceptors out to Power City and out Power Line Road (see *Figure 11.1-1*). Note: Detailed development plans for water and sewer are available at the City Hall.

11.1.299 *Exception Areas Served by Sanitary Sewer*

Goal 11 attempts to prevent urban sprawl by prohibiting cities from extending sewer service outside of their urban growth boundaries. As implemented under Oregon Administrative Rules (OAR) Chapter 660, Division 11 however, Goal 11 allows a use or property outside of an urban growth boundary to be served by an existing sanitary sewer system when reasons justify why the Goal should not apply to a use or property and the standards for an exception are met.

A. Exception Area #1 – CTUIR Trust Property

The United States Government owns a largely triangular-shaped property outside of the City of Umatilla's urban growth boundary held in trust for the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). This trust property is identified as tax lot 500 in Section 7, Township 5 North, Range 29 East, W.M. and is adjacent along its west and south boundaries to property within the city limits. The property is approximately 195.23 acres in size and was acquired by the CTUIR in 1993 from The Trust For Public Land, a nonprofit California public benefit corporation. The CTUIR conveyed the property to the United States Government in 1999 pursuant to Section 5 of the Indian Reorganization Act of June 18, 1934, to be held in trust for the CTUIR. A relatively narrow strip of land adjacent to the north that once accommodated a portion of the Union Pacific Railroad's rail line, but has since been converted to trail use, separates the CTUIR's property from the Columbia River to the north.

The CTUIR subsequently planned and zoned the off-reservation property for industrial use. The property is also identified on Umatilla County's Comprehensive Plan map as being industrial and is zoned Heavy Industrial (HI) by the County. Umatilla County notes in its Comprehensive Plan that,

Although the Indian Trust Land designation excludes it from the County Comprehensive Plan and Development Code jurisdiction, the County must identify it in its Plan and Plan Map for future use should ownership change and it becomes a private land holding.

The CTUIR is actively promoting the property for industrial use; however, for all practical intents and purposes, the property is landlocked. To address this problem, the CTUIR is working with the Oregon Department of Corrections (DOC) and the City of Umatilla to extend a new street to the CTUIR's property across property currently owned by the DOC. The new street will contain all needed utilities, including sewer, to serve not only the CTUIR's property outside the City's urban growth boundary, but also the adjacent property owned by the DOC and the adjacent industrial-zoned properties inside the city limits owned by the Port of Umatilla. When completed to the City's standards, ownership and maintenance of the new street, sewer and water utility lines will be transferred to the City of Umatilla.

OAR 660-011-0060(9), in part, authorizes a local government to extend its existing sewer system to serve a use or property outside of its urban growth boundary "provided the standards for an exception have been met;" the standards for an exception are contained under OAR 660-004-0020(2)(a)-(d). OAR 660-004-0020(2)(a) requires appropriate reasons to justify a goal exception; OAR 660-004-0022 identifies nonexclusive reasons that may be used to justify certain types of uses including the reason in OAR 660-011-0060(9)(b) which recognizes "[t]he

extension of an existing sewer system [that] will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.” In addition to authorizing a local government to extend its existing sewer system to serve a use or property outside of its urban growth boundary as described above, OAR 660-011-0060(9) also requires the local government to adopt land use regulations that “prohibit the sewer system from serving any uses or areas other than those justified in the exception.”

OAR 660-011-0060(9)(b) provides an appropriate reason that, when supported by facts may authorize an exception to Goal 11 that would allow the City of Umatilla to provide sewer service to the CTUIR’s trust property if the exception requirements under OAR 660-004-0020(2)(a) – (d) are also met. The United States Government holds title to the property in trust for the CTUIR. Federally-owned property is not subject to Oregon’s statewide planning goals or to Oregon’s property tax system. Oregon’s statewide planning goals, including Goal 11 and Goal 14, are not, by operation of the Supremacy Clause under Article VI, Section 2 of the U.S. Constitution, whether express or implied, applicable or enforceable to any development on the CTUIR’s trust property. The provision under OAR 660-011-0060(9)(b) was adopted by the Land Conservation and Development Commission (LCDC) in 2008 in an attempt to address the Land Use Board of Appeals’ (LUBA) concerns in *Debby Todd v. City of Florence*, LUBA No. 2006-068, in which LUBA acknowledged the extremely awkward situation faced by the City of Florence in its attempt to justify an extension of that city’s existing sewer system to serve a proposed development on land owned by the United States and held in trust for the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians located outside of that city’s urban growth boundary.

While the application of OAR 660-011-0060(9)(b) in demonstrating an appropriate reason in meeting the reasons justification required under OAR 660-004-0020(2)(a) and 660-004-0022 is clear, the extent to which it satisfies the requirements under OAR 660-004-0020(2)(b) through (d) requires a more detailed explanation. In *Debby Todd v. City of Florence*, LUBA distinguished the “use” and “proposed use” between the extension of the City’s sewer system and the proposed development the sewer system extension was intended to serve in relation to the rule requirements. As the City of Umatilla understands the exception requirements under OAR 660-004-0020(2)(b) – (d) prior to *Debby Todd v. City of Florence*, an analysis of these requirements would have been necessary for the “proposed use,” the same as for a Goal 14 exception, in order to justify a Goal 11 exception to extend sewer service to land that did not require a Goal 14 exception. However, OAR 660-011-0060(9)(b) specifically excludes the need to address Goal 14 when it references land outside an urban growth boundary to be served by the extension of an existing sewer system “that, by operation of federal law, is not subject to statewide planning Goal 11, and if necessary, Goal 14” [emphasis added]. LCDC’s adoption of OAR 660-011-0060(9)(b) eliminated the need to conduct an “alternative areas” analysis for a Goal 11 exception in order to justify a “proposed use” on federally-owned land. OAR 660-011-0060(9)(b) effectively renders OAR 600-004-0020(2)(b) and (c) inapplicable to a Goal 11 exception on federally-owned land because both of those would otherwise require an “alternative areas” analysis to justify a “proposed use” on that land. This contention is supported in *Debby Todd v. City of Florence* by LUBA when it argued,

The policy underlying Goal 11 seems little offended by allowing a single sewer system to serve two adjoining areas that each have the legal right and practical ability to develop

urban uses and urban-level sewer facilities, notwithstanding that one area is within a UGB and the other outside the UGB.

OAR 660-011-0060(9)(b) renders OAR 660-004-0020(2)(d) inapplicable as well, but for a somewhat difference reason. Under typical circumstances where OAR 660-004-0020(d) applies, this rule requires that “[t]he proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.” To some extent, the City is agreeable to extending its sewer system to serve industrial uses on the CTUIR’s trust property because the property is bordered on two sides by industrially-zoned land inside the city limits that allow industrial uses similar to those proposed by the CTUIR. Uses permitted in the City of Umatilla’s Heavy Industrial (M2) Zone are similar to those allowed industrial uses as described in the CTUIR’s Land Development Code. Both the CTUIR and the City of Umatilla require site plan review and approval to ensure that all uses permitted in their respective industrial zones will meet minimum development standards, which also provides some level of compatibility between uses.

However, the CTUIR could choose to develop the property with any other type of non-industrial use or uses, and the City would have no recourse to address the compatibility of those uses with existing or permitted uses on the adjacent industrial land inside the city limits, other than to not agree to serve those uses with the City’s existing sewer system. OAR 660-011-0020(d) recognizes, through the inclusion of the language “. . . and if necessary, Goal 14,” that the City does not have the authority to adopt “measures” regulating uses on the CTUIR’s property to “render” those uses compatible or even to “reduce adverse impacts” from those uses. The limitation on serving only those uses proposed and approved to connect to the sewer system provides the only effective means to ensure some level of compatibility with other adjacent uses.

The CTUIR proposes to use the property for industrial use with specific uses, for purposes of meeting the use limitation requirement under OAR 660-011-0060(9)(b), being limited to those industrial uses permitted in the Tribes’ Land Development Code. As previously mentioned, the CTUIR’s trust property is adjacent to large tracts of heavy industrial zoned land inside the city limits adjacent to the west and south. The adjacent property to the west contains the Two Rivers Correctional Institution (TRCI) while the adjacent property to the south is undeveloped.

In order to ensure that only those areas for which the Goal 11 exception has been taken will be served by the extension of the City’s existing sewer system, the City of Umatilla will include the following policy in its Comprehensive Land Use Plan under Section 11.5, the ‘Public Facilities and Services Policies’ section of the Goal 11 element of the Plan:

Policy: 11.5.104 As long as the CTUIR’s trust property identified as tax lot 500 in Section 7, Township 5 North, Range 28 East, W.M. remains outside of the City of Umatilla’s urban growth boundary, only those industrial uses permitted in the CTUIR’s Land Development Code shall be allowed to connect to the City’s sewer system.

In summary, the City of Umatilla has expressed its willingness to extend a sewer line approximately one-half mile beyond its city limits and urban growth boundary to serve a 195.23-acre property owned by the United States Government held in trust for the Confederated Tribes

of the Umatilla Indian Reservation. The fact that the property is owned by the United States Government and is held in trust for the CTUIR does not alter the non-applicability status of the statewide planning goals to the property. The sewer line will be placed within a new road created to provide access to the property; both the road and sewer line will be designed to serve other industrial properties adjacent to the west and south that are already in the urban growth boundary and city limits. The City has found the requirements for a Goal 11 exception to be met, largely through LCDC's adoption of OAR 660-011-0060(9)(b) which provided an appropriate reason to justify a Goal exception and obviated the need to conduct alternative areas analyses to justify the uses proposed for the CTUIR trust property. The City adopted an appropriate policy to limit the uses on the CTUIR's trust property that are allowed to connect to the City's sewer system to those justified through the exception which are those industrial uses permitted in the Tribes' Land Development Code. The City believes that extension of the sewer line to serve the CTUIR trust property and the other industrially-zoned land within the urban growth boundary will help to create jobs and provide other positive economic impacts for the community and CTUIR.



N
 UMATILLA
URBAN SERVICES AND FACILITIES
 - - - - FUTURE SERVICE AREA
 ——— EXISTING SERVICE AREA for water and sewer

CITY OF UMATILLA

Figure 11.1-1

11.1.300 *SCHOOLS*

The Umatilla school system is operating over capacity for the 1976-77 school year. At the beginning of the 1977 academic year, the Umatilla schools had an enrollment of 857 students. This was 157 students more than for the same time period in 1976; an increase of 22 percent.

As enrollment increases above the 857 students, capacity problems are anticipated. This will be particularly true of the lower elementary school grades. A new elementary school constructed in the McNary area was to help alleviate this problem. The school was at capacity a short time after it opened. Local colleges are: Blue Mountain Community College in Pendleton (30 miles), Whitman in Walla Walla, Washington (50 miles), and the Columbia Basin College in Tri-Cities area (30 miles).

Future plans include development of an additional elementary school on the hill southwest of the central part of the City. With this new school completed, the existing elementary/high school complex could become a junior and senior high school facility. Land for the future elementary school has been purchased. Consideration should also be given, near the end of the planning period, to a third elementary school in the Power City area as that area urbanizes, and to a fourth school in the area near Power Line and Bensel Roads. Police and fire protection services will also require expansion as the City grows.

11.1.400 *SOLID WASTE*

Solid waste is collected through franchise and refuse deposited at a county/DEQ approved landfill two miles north of Umatilla. The landfill has a projected use of approximately twenty years.

11.1.500 *SOCIAL SERVICES*

11.1.510 *Police*

The police department occupies new quarters across the street from City Hall which contains offices, a two cell holding facility, squad room and an interrogations room. The staff is comprised of five officers and five support personnel. In addition to customary police services, the department provides animal control, 24-hour radio dispatch and radio links with other public safety agencies in the area. As the area continues to grow there will be a need for additional personnel and patrol cars. Improving east-west transportation links is seen as essential to reduce police response time between sectors of the City.

11.1.520 *Fire*

Fire protection is currently provided by the rural fire protection district which has an elected board and volunteer personnel. Stations are located in the downtown area and at McNary. Equipment includes four fire vehicles and a disaster vehicle at the downtown location, and two fire vehicles at the McNary location. Additional equipment includes an ambulance manned by fire department personnel. Additional equipment and personnel will be needed through the

planning period as the population increases. Future needs may also include an additional station south of the City on the hill.

11.1.530 *Hospital*

The existing hospital is an older facility with 17 beds. The hospital provides 24-hour emergency service with a nursing staff and two physicians. The need for a new facility is currently under consideration as well as expanding the staff.

11.1.540 *Library*

The City's library is staffed by one librarian four days a week. The library contains approximately 5,000 volumes and is actively used. Capacity problems are not presently anticipated with the present facility, which was expanded during 1978.

SECTION 11.2 *(Reserved for expansion)*

SECTION 11.3 *(Reserved for expansion)*

SECTION 11.4 PUBLIC FACILITIES AND SERVICES FINDINGS

11.4.101 Public water and sewer should be planned for all areas within an established urban service boundary.

11.4.102 New development should occur in areas where public utilities are available before reaching out into areas that are not served.

11.4.103 The location of public schools should correspond to attendance areas and residential neighborhoods.

11.4.104 Development of the City should occur in such a way as to facilitate the provision of police, fire protection, and other services.

SECTION 11.5 PUBLIC FACILITIES AND SERVICES POLICIES

11.5.101 The City will require the following pre-conditions to development:

- a. A proposed use can be connected to a public water and sanitary sewer system with adequate capacity.
- b. Surface water run-off can be handled onsite, or adequate provisions can be made for run-off which will not adversely affect water quality in adjacent streams, ponds, lakes, or other drainage on adjoining lands; nor will such run-off adversely affect the use of adjoining or downstream properties.

- c. The appropriate school district has reviewed and commented on the proposed use.
 - d. Adequate water pressure will be present for fire-fighting.
 - e. The proposed use can receive adequate police and fire protection consistent with local standards and practices.
 - f. Septic tanks will be permitted as an interim measure subject to approval by the City Council & DEQ.
- 11.5.102 Development proposals will be required to conform to the design standards for streets, water and sewer.
- 11.5.103 The following policies will be utilized when extending water and sewer services beyond the City limits:
- a. Sewer service will be extended only to property that is to be annexed or when State/Federal requirements dictate a health need, or when an unlimited agreement to annex is provided by the property owner when subject property is not yet contiguous.
 - b. Water service will be considered on an individual basis subject to the above provisions for residential applicants.
 - c. All costs will be borne by the applicant and improvements will be dedicated to the City.
 - d. Customers outside the City limits will pay charges assigned by the City Council in an amount greater than City residents.
- 11.5.104 As long as the CTUIR's trust property identified as tax lot 500 in Section 7, Township 5 North, Range 28 East, W.M. remains outside of the City of Umatilla's urban growth boundary, only those industrial uses permitted in the CTUIR's Land Development Code shall be allowed to connect to the City's sewer system.