

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 4

INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

(As Amended by LCDC January 24, 2008; no amendments to other rules in this division)

660-004-0040

Application of Goal 14 (Urbanization) to Rural Residential Areas

(NOTE: no amendments to sections (1) through (6) of this rule.)

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(1)([†]s)(A)-[†] (D).

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, ~~D~~division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

- (A) Ashland;
- (B) Central Point;
- (C) Medford;
- (D) Newberg;
- (E) Sandy.

(b) If a city or urban area listed in sSubsection (8)(a):

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 021; or

(B) is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinances or acknowledged regional growth plan.

(c) Notwithstanding the provisions of Ssection (7) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Ssubsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, ~~D~~division 021, or is not part of an acknowledged regional growth plan as described in Ssubsection (b), Pparagraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of Ssection (7), if [~~the Portland metropolitan service district~~] Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 21 or division 27, any land division of rural residential land in that urban reserve [~~area~~] shall be done in accordance with the applicable acknowledged [~~urban reserve ordinance~~] comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of Ssection (7), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan

area and is in a rural residential area, and if the [~~Portland metropolitan area does not have~~] **Metro has not designated** an urban reserve [area] that contains at least a twenty-year reserve of land [~~and that has been~~] acknowledged to comply with **either** OAR 660, ~~D~~division 021 **or OAR 660, division 27**, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of ~~S~~section (7), and ~~S~~subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in ~~S~~subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at [the] densities **of at least 10 units per net developable acre** [set forth in the Metro 2040 plan]. In no case shall the minimum **parcel** area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through ~~(E)~~ **(G)** of this subsection exist:

- (A) The parcel to be divided has two or more permanent, habitable dwellings on it;
- (B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;
- (C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;
- (D) The partition would not create any vacant parcels on which new dwellings could be established; and
- (E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.
- (F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(~~ts~~)(A) - (D), **and**,
- (G) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27.**

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS ~~183 & 197~~; ORS 197.040; **Chapter 141**

Stats. Implemented: ORS 197.175 & 197.732; ORS 195.145; **ORS 195.141**

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04