

**LAND CONSERVATION AND DEVELOPMENT DEPARTMENT  
PROPOSED NEW OAR 660, DIVISION 27  
URBAN AND RURAL RESERVES IN THE PORTLAND METROPOLITAN  
AREA**

October 11, 2007

Conceptual Draft Rules for Workgroup Discussion

1 **660-027-0005**

2 **Purpose**

3 This division is intended to implement the provisions of 2007 Oregon Laws Chapter 723  
4 regarding the designation of urban reserves and rural reserves in the Portland  
5 metropolitan area. This division provides an alternative to the urban reserve designation  
6 process described in OAR 660, Division 21. Urban reserves under this division are  
7 intended to facilitate long-term planning for urbanization in the Portland metropolitan  
8 area and to provide greater certainty to the agricultural and forest industries, to other  
9 industries and commerce, to private landowners and to public and private service  
10 providers about the locations of future expansion of the Metro Urban Growth Boundary.  
11 Rural reserves under this division are intended to provide long-term protection for large  
12 blocks of agricultural land and forest land and for natural landscape features that limit  
13 urban development or define natural boundaries of urbanization. The division establishes  
14 procedures for designation of urban and rural reserves in the metropolitan area by  
15 agreement between and among local governments in the area, and by amendments to the  
16 applicable regional framework plan and comprehensive plans. The division also  
17 prescribes criteria and factors that local governments must meet or consider when  
18 choosing lands for designation as urban or rural reserves.

19  
20 **660-027-0010**

21 **Definitions**

22 The definitions contained in ORS 195 and 197 and the Statewide Planning Goals (OAR  
23 Chapter 660, division 15) apply to this division. The following definitions also apply:

24  
25 (1) “Intergovernmental agreement” means an agreement **between Metro and a county**  
26 **pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658, and requirements**  
27 **in this division, regarding the designation of urban and rural reserves, the**  
28 **performance of related land use planning and other activities, including but not**  
29 **limited to actions required by this division, that a party to the agreement, its officers**  
30 **or agencies, have authority to perform.**<sup>1</sup>

31  
32 (2) “Metro” means a metropolitan service district established under ORS chapter 268.

33  
34 (3) “**Important natural landscape features**” means **natural features that limit urban**  
35 **development or help define appropriate natural boundaries of urbanization. These**

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<sup>1</sup> These particular statutes were cited in SB 1011. However, the descriptions, procedures and requirements for the intergovernmental agreements described in these statutes seem irrelevant to the agreements we are contemplating. The workgroup should consider whether to resolve this discrepancy by adding language to the definition in this rule that describes, in as few words as necessary, the agreements we are discussing. DLCDC has included some suggested language here (in bold), for purposes of discussion. Since we have added some rules for agreements (e.g., citizen involvement) that are not in the statutes, at a minimum we should add the words “and requirements in this division”.

1 features include, but not limited to, plant, fish and wildlife habitat, steep slopes and  
2 floodplains.<sup>2</sup>

3  
4 **(4) “Public facilities and services” means water, sanitary sewer, storm water  
5 management, public parks and transportation facilities.**<sup>3</sup>

6  
7 (5) “Regional framework plan” means the plan adopted by Metro pursuant to ORS  
8 chapter 268.

9  
10 (6) “Rural reserve” means land outside the Metro UGB, **and outside any other UGB in**  
11 **a county with which Metro has an agreement pursuant to this division,**<sup>4</sup> reserved to  
12 provide long-term protection for agriculture, forestry or important natural landscape  
13 features.

14  
15 (7) “UGB” means an acknowledged urban growth boundary established under Goal 14,  
16 and as defined in ORS 195.060(2).<sup>5</sup>

17  
18 (8) “Urban reserve” means land outside an urban growth boundary designated to provide  
19 for:

20 (a) Future expansion of the UGB over a long-term period, and

21 (b) The cost-effective provision of public facilities and services within the area  
22 designated as urban reserve when the lands are included within the urban growth  
23 boundary.

24  
25 **(9) “Walkable” means a community in which land uses are mixed, built compactly,**  
26 **and designed to provide residents and employees with safe and convenient**  
27 **pedestrian travel to schools, libraries, public offices and retail businesses that**  
28 **provide goods and services needed on a regular basis.**<sup>6</sup>

29  
30 **660-027-0020**

31 **Authority to Designate Urban and Rural Reserves**

32 (1) As an alternative to the authority to designate urban reserve areas granted by  
33 OAR 660, division 021, Metro may designate urban reserves pursuant to  
34 intergovernmental agreements with counties, and by amendment of the regional  
35 framework plan to implement such agreements, in accordance with the process and  
36 criteria in this division.

37  
38 (2) A county may designate rural reserves pursuant to an intergovernmental agreement

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<sup>2</sup> Note that because we have included this language as a definition, we have omitted the following words previously provided in several other sections of these rules: “including, but not limited to, plant, fish and wildlife habitat, steep slopes and floodplains.”

<sup>3</sup> New definition in response to October 1 workgroup decision.

<sup>4</sup> Additional language recommended by Dick Benner.

<sup>5</sup> ORS 195.060 (2) definition of UGB: “means an acknowledged urban growth boundary contained in a city or county comprehensive plan or an acknowledged urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3).”

<sup>6</sup> Term used in 0050(1)(d). See footnote 15.

1 with Metro, and by amendment of the comprehensive plan to implement such agreement,  
2 in accordance with the process and criteria in this division.

3  
4 (3) A county and Metro may not enter into an intergovernmental agreement under this  
5 division to designate urban reserves in the county unless the county and Metro also  
6 **concurrently** agree to designate rural reserves in the county.<sup>7</sup>

7  
8 **660-027-0030**

9 **Urban and Rural Reserve Intergovernmental Agreements**

10 (1) An intergovernmental agreement between Metro and a county to establish urban  
11 reserves and rural reserves under this division shall provide for a coordinated and  
12 concurrent process for adoption by Metro of regional framework plan provisions and by  
13 the county of comprehensive plan and zoning provisions to implement the agreement.  
14 The agreement shall provide for concurrent adoption by Metro and the county of urban  
15 reserves and rural reserves.

16  
17 (2) In the development of an intergovernmental agreement described in this division,  
18 Metro and any county shall follow a coordinated citizen involvement process that  
19 provides for broad public notice and opportunities for public comment regarding lands  
20 proposed for designation as urban and rural reserves under the agreement. The State  
21 Citizen Involvement Advisory Committee shall be provided an opportunity to review and  
22 comment on the proposed citizen involvement process.

23  
24 ~~(3) An intergovernmental agreement made under this division is not a land use decision~~  
25 ~~under ORS 197.015(11). **An intergovernmental agreement made under this division**~~  
26 ~~**shall be deemed a preliminary decision that is a prerequisite to the designation of**~~  
27 ~~**reserves by amendments to Metro’s regional framework plan and to a county’s**~~  
28 ~~**comprehensive plan pursuant to 660-027-0020(1). Any intergovernmental**~~  
29 ~~**agreement made under this division shall be submitted to LCDC with amendments**~~  
30 ~~**to the regional framework plan and county comprehensive plans as provided in 660-**~~  
31 ~~**027-0080(1).**~~<sup>8</sup>

32  
33 **660-027-0040**

34 **Designation of Urban and Rural Reserves**

35 (1) Metro may not designate urban reserves under this division in a county until Metro  
36 and the county have entered into an intergovernmental agreement that identifies the land  
37 to be designated as urban reserves. A county may not designate rural reserves under this  
38 division until the county and Metro have entered into an agreement that identifies the  
39 land to be designated by the county as rural reserves.

40  
41 (2) Urban reserves designated under this division shall be planned to accommodate  
42 population and employment growth for at least 20 years, and not more than 30 years,

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<sup>7</sup> See SB 1011 section 4. Does the statute’s requirement for simultaneous designation apply to the plan amendments or the agreements, or both?

<sup>8</sup> See DLCD forwarded email to the workgroup explaining the reasons for this proposed wording amendment drafted by Dick Benner.

1 beyond the 20-year period for which Metro has demonstrated a buildable land supply  
2 inside the UGB in the most recent inventory, determination and analysis performed under  
3 ORS 197.296<sup>9</sup>. Metro shall specify the particular number of years for which the urban  
4 reserves are intended to provide a supply of land.

5  
6 (3) If Metro designates urban reserves under this division prior to December 31, 2009, the  
7 reserves shall be planned to accommodate population and employment growth for at least  
8 20 years, and not more than 30 years, beyond 2029. Metro shall specify the particular  
9 number of years for which the urban reserves are intended to provide a supply of land.

10  
11 (4) Neither Metro nor a county may add rural reserves to any UGB during the period  
12 described in section (2) or (3) of this rule, whichever is applicable.

13  
14 (5) Metro may not re-designate rural reserves as urban reserves, **and a county shall not**  
15 **re-designate land in rural reserves to another use,**<sup>10</sup> during the period described in  
16 section (2) or (3) of this rule, whichever is applicable.

17  
18 (6) If Metro designates urban reserves under this division it shall adopt policies to  
19 implement the reserves and must show the reserves on its regional framework plan map.  
20 A county in which urban reserves are designated shall adopt policies to implement the  
21 reserves and show the reserves on its comprehensive plan and zone maps.

22  
23 (7) If a county designates rural reserves under this division it shall adopt policies to  
24 implement the reserves and must show the reserves on its comprehensive plan and zone  
25 maps. Metro shall adopt policies to implement the rural reserves and show the reserves  
26 on its regional framework plan maps.

27  
28 (8) Designation of urban reserves and rural reserves under this division shall be  
29 coordinated with the local governments, state agencies, special districts and school  
30 districts that may provide services to the urban reserves when they are added to the UGB.

31  
32 (9) When identifying and selecting land to for designation as urban and rural reserves  
33 under this division, Metro and the counties shall base the designation on consideration of  
34 factors provided in OAR 660-027-0050 and 660-027-0060. **As provided in those rules,**  
35 **Metro and counties are not limited to the specified factors. However, if additional**  
36 **factors are used, the factors must be adopted, by resolution, ordinance, or**  
37 **amendment to the applicable regional framework plan or county comprehensive**  
38 **plan, prior the identification, consideration and selection of the reserves.**<sup>11</sup>

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<sup>9</sup> SB 1011 has perhaps an internal inconsistency: Section 6 cites ORS 197.296, while similar provisions in Section 10 cite ORS 197.299 (which makes reference to Metro's unique five-year cycle, and also reference to ORS 197.296). Recommend we cite ORS 197.296 here, since this derives from Section 6 of SB 1011.

<sup>10</sup> New related requirement suggested by DLCD. NOTE: these rules sometimes use the term "land", and sometimes "lands". The group should pick one of these and use it consistently throughout.

<sup>11</sup> This was concept was discussed at the October 1 meeting, but wording was not drafted. NOTE: This proposed rule begins with the words "When identifying and selecting land to for designation as urban and rural reserves under this division, Metro shall...." These words also appear elsewhere in the two rules

1  
2 (10) Metro and those counties that lie partially within Metro shall ~~develop~~ **designate**<sup>12</sup>  
3 proposed urban and rural reserves concurrently and in coordination with one another.  
4 **Metro and the** counties shall adopt a single set of findings and conclusions that  
5 demonstrate how they identified and compared areas for designation as urban or rural  
6 reserves, how they weighed and considered each of the relevant factors in OAR 660-027-  
7 0050 and OAR 660-027-0060 and why they selected the urban and rural reserves  
8 designated pursuant to this division.<sup>13</sup>  
9

10 *(11) Perhaps something needs to be here (or in section (9), above) to indicate how*  
11 *Metro combines the three separate county agreements in its final designation of the*  
12 *reserves such that the three urban reserve areas, in combination, provide the entire 20-*  
13 *30 year supply specified in section (2) or (3) of this rule?*  
14

#### 15 **660-027-0050**

#### 16 **Identification, Selection and Designation of Lands for Urban Reserves**

17 (1) When identifying and selecting land for designation as urban reserves under this  
18 division, Metro shall base its decisions upon consideration of factors including, but not  
19 limited to, whether land proposed for designation as urban reserves, alone or in  
20 conjunction with land inside the UGB:<sup>14</sup>  
21

22 (a) Can be developed at urban densities in a way that makes efficient use of existing and  
23 future public and private infrastructure investments;  
24

25 (b) ~~Include~~ **Can provide** sufficient development capacity to support a healthy economy;  
26

27 (c) Can be efficiently and cost-effectively served with public schools and other urban-  
28 level public facilities and services by appropriate and financially capable service  
29 providers;  
30

31 (d) Can be designed to be walkable<sup>15</sup> and served, by appropriate service providers, with a  
32 well-connected system of streets,<sup>16</sup> **bikeways, and recreation trails**<sup>17</sup>;

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below. Dick Benner has suggested a slightly different wording, as follows: “When identifying, selecting and designating land as urban reserves under this division, Metro shall base its decision on ....”.

<sup>12</sup> See SB 1011 section 4, requiring simultaneous designation. The group should discuss whether the word “concurrently” is different than or preferred to the word “simultaneously”.

<sup>13</sup> I wordsmithed this slightly, but I realize the workgroup agreed to leave this section alone till we look at the rural reserve factors, at which time we will look at different options for this language submitted by Dick Benner, Pat Ribellia and Al Burns (see attached document).

<sup>14</sup> These factors come directly from SB 1011. They are derived from the “great communities” factors developed as part of the ag/urban study. Metro’s ad hoc group discussed a couple of potential modifications to these factors - the workgroup has already agreed to most of these modifications, but has not discussed the following: “Should a factor be added that allows for the inclusion in urban reserves of areas that may not otherwise rate highly based on the “great communities” factors (due to topography, parcelization, etc.), but that might make sense to urbanize over the long term for other reasons (e.g., urban form, governance)?”

<sup>15</sup> See rule 005 for proposed definition of “walkable”, based on the attached ideas from Steve Oulman (DLCD staff in TGM Program).

- 1  
2 (e) Can be designed to preserve and enhance natural ecological systems;  
3  
4 (f) Includes sufficient land suitable for a range of **needed** housing types;  
5  
6 (g) Can be developed in a way to preserve important natural landscape features included  
7 in urban reserves; and  
8  
9 (h) Can be designed to mitigate adverse effects on farm and forest practices and natural  
10 landscape features on nearby resource land, including land designated as rural reserves.  
11

12 **660-027-0060**

13 **Identification, Selection and Designation of Lands For Rural Reserves**  
14

15 (1) When identifying and selecting land for designation as rural reserves under this  
16 division, a county shall indicate which lands are intended to provide long-term protection  
17 to the agricultural or forest industries, and which lands are intended to provide long term  
18 protection for natural landscape features. Based on this determination, the county shall  
19 apply the factors in either section (2) or (3) of this rule, whichever are appropriate.<sup>18</sup>  
20

21 (2) When identifying and selecting land for designation as rural reserves intended to  
22 provide long-term protection to the agricultural industry or forest industry, a county shall  
23 base the decision on consideration of factors including, but not limited to, whether the  
24 lands proposed for rural reserves:  
25

26 (a) Are situated in an area that is otherwise potentially subject to urbanization during the  
27 period described in the applicable section (2) or (3) of OAR 660-027-0040, as indicated  
28 by proximity to a UGB **or**<sup>19</sup> proximity to properties with fair market values that  
29 significantly exceed agricultural or forestry values;  
30

31 (b) Are capable of sustaining long-term agricultural or forestry operations;  
32

33 (c) Have suitable soils where needed to sustain long-term agricultural or forestry  
34 operations, and have available water where needed to sustain long-term agricultural  
35 operations;  
36

37 (d) Provide for separation between cities; and  
38

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<sup>16</sup> Definition needed? DLCD’s transportation planning rule uses similar words but does not define “well connected system of streets”.

<sup>17</sup> Metro’s *ad hoc* group suggested that language referring to pedestrian and bicycle facilities consistent with the Transportation Planning rule should be added (I added it here), but the group also agreed this issue merits further discussion, which has not occurred so far. DLCD has asked legal counsel whether the workgroup may modify the specific wording of factors provided by SB 1011, as we have suggested here.

<sup>18</sup> This scheme does not indicate the way to treat land that is in both farm and forest use. The workgroup should discuss this.

<sup>19</sup> Should this be “and” or “or”? Statute says “and”, but “or” seems more appropriate.

- 1 (e) Are suitable to sustain long-term agricultural or forestry operations, taking into  
2 account:
- 3 (A) for farm land, the existence of a large block of agricultural or other resource land  
4 with a concentration or cluster of farm operations, and for forest land, the existence of a  
5 large block of forested land with a concentration or cluster of managed woodlots;
  - 6 (B) The adjacent land use pattern, including its location in relation to adjacent non-farm  
7 uses and non-forest uses, and the existence of buffers between agricultural or forest  
8 operations and non-farm and non-forest uses;
  - 9 (C) The agricultural or forest land use pattern, including parcelization, tenure and  
10 ownership patterns; and
  - 11 (D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is  
12 applicable.
- 13
- 14 (3) When identifying and selecting land for designation as rural reserves intended to  
15 protect natural landscape features, a county shall base the decision upon consideration of  
16 factors including, but not limited to, whether lands proposed designation as rural  
17 reserves:
- 18
  - 19 (a) Are situated in an area that is otherwise potentially subject to urbanization during the  
20 period described in the applicable section (2) or (3) of OAR 660-027-0040, whichever is  
21 applicable;
  - 22
  - 23 (b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas  
24 subject to landslides;
  - 25
  - 26 (c) Are important fish, plant or wildlife habitat, such as wetlands and stream and river  
27 corridors;
  - 28
  - 29 (d) Are necessary to protect water quality or water quantity, such as streams, wetlands  
30 and riparian areas;
  - 31
  - 32 (e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive  
33 wetlands;
  - 34
  - 35 (f) Can serve as a boundary or buffer to reduce conflicts between urban uses and rural  
36 uses and natural resources, such as rivers, cliffs and floodplains;
  - 37
  - 38 (g) Provide for separation between cities; and
  - 39
  - 40 (h) Provide easy access to recreational opportunities in rural areas, such as rural trails and  
41 parks.
  - 42

1 **660-027-0070**

2 **Planning of Urban and Rural Reserves**

3 **(1) Urban reserves are the highest priority for inclusion in the urban growth**  
4 **boundary when the boundary is expanded, as specified in Goal 14, OAR 660,**  
5 **division 24, and ORS 197.298.**

6  
7 (2) In order to maintain opportunities for orderly and efficient **development of urban**  
8 **uses and** provision of urban services when urban reserves are added to the UGB,  
9 counties shall not amend land use regulations for urban reserves designated under this  
10 division to allow uses that were not allowed, or smaller lots or parcels than were allowed,  
11 at the time of designation as urban reserves until the reserves are added to the UGB.<sup>20</sup>

12  
13 (3) Counties that designate rural reserves under this division shall not amend their land  
14 use regulations to allow uses that were not allowed, or smaller lots or parcels than were  
15 allowed, at the time of designation as rural reserves unless and until the reserves are re-  
16 designated, consistent with this division, as land other than rural reserves.

17  
18 **(4) Counties, cities and Metro may adopt conceptual plans for the eventual**  
19 **urbanization of urban reserves designated under this division, and may enter into**  
20 **urban service agreements among cities, counties and special districts serving or**  
21 **projected to serve the designated urban reserve area.**<sup>21</sup>

22  
23 **660-027-0080**

24 **Adoption and LCDC Review of Urban and Rural Reserves**

25 (1) Designation or amendment of urban and rural reserves under this division shall be  
26 adopted by Metro and counties in accordance with the applicable provisions of ORS  
27 197.610 through 197.650.

28  
29 (2) After adoption or amendment of urban and rural reserves, Metro and applicable  
30 counties shall **concurrently**<sup>22</sup> submit the adopted or amended reserves to the Land  
31 Conservation and Development Commission for approval in the manner provided for  
32 periodic review under ORS 197.628 to 197.650.

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<sup>20</sup> With respect to this “anti-backsliding” provision, an issue left unresolved relates to whether language should be added that would lift this restriction, not only when land is added to a UGB, but also if land in urban reserves is added to an unincorporated community. For now we agreed to leave such language out, but agreed it merits further discussion. Also, this provision has been amended from previous drafts to remove wording that indicates it applies only to counties within the Portland Metro area, so that other counties may also enter into agreements with metro in the future.

<sup>21</sup> In Oct 1 meeting the workgroup agreed to authorize (but not require) concept plans and service agreements; is there already a definition of concept plans somewhere else (Metro perhaps) that we could work from? Regarding the urban service agreements, there is extensive wording about these in Div 21, see DLCD Suggestions Regarding Additional Issues, below.

<sup>22</sup> See footnote 12.