

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 28

Draft Rules September 20, 2007

RURAL RESERVES IN THE PORTLAND METROPOLITAN AREA

1 **660-028-0005**

2 **Purpose**

3 This division is intended to implement the provisions of 2007 Oregon Laws Chapter ____
4 (Senate Bill 1011) that relate to rural reserves in the Portland metropolitan area. The
5 purpose of the division is to provide long-term protection for large blocks of agricultural
6 land and forest land and for natural landscape features that limit urban development or
7 define natural boundaries of urbanization. The division establishes procedures for
8 designation of rural reserves in the metropolitan area by agreement between and among
9 local governments in the area. The division also prescribes factors that local governments
10 must consider when choosing lands for designation as rural reserves.

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12 **660-028-0010**

13 **Definitions**

14 The definitions contained in ORS 197.015¹ and the Statewide Planning Goals (OAR
15 Chapter 660, Division 015) apply to this division. The following definitions also apply:

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17 (1) “Intergovernmental agreement” means an agreement made pursuant to ORS 190.003
18 to 190.130, 195.025 or 197.652 to 197.658.

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

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22 (3) “Regional framework plan” means the plan adopted by Metro pursuant to ORS
23 chapter 268.

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25 (4) “Rural reserve” means land outside any UGB reserved to provide long-term
26 protection for agriculture, forestry or important natural landscape features that limit urban
27 development or help define appropriate natural boundaries of urbanization, including
28 plant, fish and wildlife habitat, steep slopes and floodplains.

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30 (5) “UGB” means an urban growth boundary established under Statewide Planning
31 Goal 14 (Urbanization).²

¹ See also definitions under: ORS 195.060; ORS 215.010; ORS 227.010, .095, 160, and .215; ORS 268.020

² NOTE: UGB is defined in ORS 195.060 (2).

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- (6) “Urban reserve” means land outside an urban growth boundary that will provide for:
- (a) Future expansion over a long-term period; and
 - (b) The cost-effective provision of public facilities and services within the area when the lands are included within the urban growth boundary.

660-028-0020

Authority to Designate Rural Reserves

A county and Metro may enter into an agreement to designate rural reserves under this division.³

660-028-0030

Rural Reserve Agreements

(1) An agreement between a county and Metro to establish rural reserves under this division shall provide for a coordinated and concurrent process for adoption by the county of comprehensive plan provisions and by Metro of regional framework plan provisions to implement the agreement. The agreement shall provide for simultaneous consideration by Metro and the county of designation of rural reserves and urban reserves under OAR 660, division 27.

(2) An agreement made under this rule is not a land use decision under ORS 197.015(11).

660-028-0040

Designation of Rural Reserves⁴

(1) When designating rural reserves under this division, a county shall base the designation of rural reserves intended to provide long-term protection to the agricultural industry upon consideration of factors including, but not limited to, whether lands proposed for rural reserves:

- (a) Are situated in an area that is otherwise potentially subject to urbanization during the period described in section (7) of this rule as indicated by proximity to a UGB and to properties with fair market values that significantly exceed agricultural values;
- (b) Are capable of sustaining long-term agricultural operations;

³ While the group agreed not to include any language in the rules about the larger regional context, it is understood that Metro and the counties of the region (Clackamas/Multnomah/Washington) will enter into a single coordinated process to designate both urban and rural reserves in those three counties.

⁴ 0040 (1) includes the factors to be considered when designating rural reserves for the purpose of protecting agriculture. These factors come directly from SB 1011. They are derived from the considerations that went into the agricultural lands assessment that was part of the ag/urban study.

- 1 (c) Have suitable soils and available water where needed to sustain long-term agricultural
2 operations;
- 3 (d) Provide for separation between cities; and
- 4 (e) Are suitable to sustain long-term agricultural operations, taking into account:
- 5 (A) The existence of a large block of agricultural or other resource land with a
6 concentration or cluster of farms;
- 7 (B) The adjacent land use pattern, including its location in relation to adjacent non-farm
8 uses and the existence of buffers between agricultural operations and non-farm uses;
- 9 (C) The agricultural land use pattern, including parcelization, tenure and ownership
10 patterns; and
- 11 (D) The sufficiency of agricultural infrastructure in the area.
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- 13 (2) When designating rural reserves under this division, a county shall base the
14 designation of rural reserves intended to provide long term protection to the forest
15 industry upon consideration of factors including, but not limited to, whether lands
16 proposed for designation as rural reserves:⁵
- 17 (a) Are situated in an area that is otherwise potentially subject to urbanization during the
18 period described in section (7) of this rule as indicated by proximity to an UGB and to
19 properties with fair market values that significantly exceed forestry values;
- 20 (b) Are capable of sustaining long-term forestry operations;
- 21 (c) Have soils capable of sustaining long-term forestry operations;
- 22 (d) Provide for separation between cities; and
- 23 (e) Are suitable to sustain long-term forestry operations, taking into account:
- 24 (A) The existence of a large block of forested land with a concentration or cluster of
25 managed woodlots;
- 26 (B) The adjacent land use pattern, including its location in relation to adjacent non-forest
27 uses and the existence of buffers between forest operations and non-forest uses;
- 28 (C) The forest land use pattern, including parcelization, tenure and ownership patterns;
29 and
- 30 (D) The sufficiency of forestry infrastructure in the area.

⁵ 0040 (2) includes the factors to be considered when designating rural reserves for the purpose of protecting forestry. SB 1011 did not include any factors to consider for this purpose. The factors listed here are adapted from the agricultural factors in 0040 (1). We consulted with the Oregon Forest Industries Council (OFIC), which agreed with this direction. We also consulted with the Oregon Department of Forestry (ODF) and received some preliminary input. One suggestion was to add a factor referencing lands identified as threatened by potential conversion to non-forest use under the federal Forest Legacy program. While this idea may have merit, the stakeholder group agreed that we needed more information about this program and the potential unintended consequences, both to the SB 1011 rural reserve process and to the Forest Legacy program, of including this factor. ODF is expected to participate in the official rulemaking work group.

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(3) When designating rural reserves under this division, a county shall base the designation of rural reserves intended to protect natural landscape features that limit urban development or help define natural boundaries of urbanization upon consideration of factors including, but not limited to, whether lands proposed designation as rural reserves:⁶

(a) Are situated in an area that is otherwise potentially subject to urbanization during the period described in section (7) of this rule;

(b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides;

(c) Are important fish, plant or wildlife habitat, such as wetlands and stream and river corridors;

(d) Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas;

(e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands;

(f) Can serve as a boundary or buffer to reduce conflicts between urban uses and rural uses and natural resources, such as rivers, cliffs and floodplains;

(g) Provide for separation between cities; and

(h) Provide easy access to recreational opportunities in rural areas, such as rural trails and parks.

(4) Metro or a county need not demonstrate that a proposed rural reserve satisfies each factor. The county shall consider each factor in the appropriate section of this rule and explain, by reference to the factors, why it designated the chosen land as rural reserves. A county may designate land as rural reserve for more than one of the purposes set forth in sections (1), (2) and (3) of this rule.

(5) If a county designates rural reserves under this division it shall adopt policies to implement the reserves and show the reserves on its comprehensive plan map. If rural reserves are designated under this division, Metro shall adopt a policy that prohibits addition of the reserves to the UGB for the period of years described in section (7) of this rule and shall show the reserves on its regional framework plan map.

⁶ 0040 (3) includes the factors to be considered when designating rural reserves for the purpose of protecting natural landscape features. SB 1011 did not include any factors to consider for this purpose. Aside from factors (a) and (g), the factors included here are derived from the natural landscape features analysis that was conducted as part of the ag/urban study. Factor (a) parallels factors included for agriculture and forestry

1 (6) Designation by a county of rural reserves under this division shall be coordinated with
2 cities that may be affected by designation of rural reserves.

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4 (7) Neither Metro nor a county may re-designate rural reserves designated under this
5 division as urban reserves for the period of years established as the urban reserve
6 planning period under OAR 660-027-0040(1) or (2), whichever is applicable.

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8 (8) Neither Metro nor a county may add rural reserves designated under this division to
9 any UGB for the period of years established as the urban reserve planning period
10 described in section 7) of this rule.

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12 (9) A county may not designate rural reserves under this division until the county and
13 Metro have entered into an agreement under OAR 660-028-0030 that identifies the land
14 to be designated by the county as rural reserves.

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16 **660-028-0050**

17 **Planning of Rural Reserves**

18 Counties that designate rural reserves under this division shall not amend their land use
19 regulations to allow uses that were not allowed, or smaller lots or parcels than were
20 allowed, at the time of designation as rural reserves until the reserves are re-designated
21 consistent with this division.⁷

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23 **660-028-0060**

24 **Adoption and Review of Rural Reserve Areas**

25 Designation or amendment of rural reserves under this division shall follow periodic
26 review procedures in ORS 197.628 through 197.644.

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⁷ A concern was raised about the possibility that new non-farm uses could be authorized by the Legislature and that such a statutory change would conflict with this provision. Most new non-farm uses authorized by the Legislature in recent years have been conditional uses, which, because they are discretionary, would not conflict with this provision. In any event, we agreed that, because statute overrides rules, any language we included to accommodate a possible conflict with statute would have no effect, so we did not include any such language.