



Oregon

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TO: Land Conservation and Development Commission (LCDC)

FROM: Bob Rindy, Policy Analyst, DLCD

SUBJECT: **Agenda Item 5, September 1-2, 2010, LCDC Meeting**

INFORMATIONAL BRIEFING ON URBAN AND RURAL RESERVES AUTHORIZED IN THE METRO TRI-COUNTY AREA

I. AGENDA ITEM SUMMARY

Under this agenda item, the department will provide a background briefing for the commission regarding the history, statutes, rules, procedures and standards for designation of urban and rural reserves in the Tri-county Metro area. This item is not intended for public comment and no commission action is requested. The department's background briefing will include a power point slide show that was not available at the time of this report.

For more information about this agenda item, contact Bob Rindy, at (503) 373-0050, Ext. 229, or email at bob.rindy@state.or.us

A. History of Metro Urban and Rural Reserves

In 2007, the Oregon Legislature enacted Senate Bill (SB) 1011 authorizing Metro and the three Metro area counties (Washington County, Multnomah County, and Clackamas County) to designate Urban Reserves and Rural Reserves under a new process and with new requirements different than those applicable in other regions of the state. Prior to this, statutes under ORS 195.137 through 195.145, and administrative rules adopted by LCDC under OAR 660, division 21, provided a process for adoption of urban reserves and mandated that adoption by some cities. SB 1011 not only provided an alternative (voluntary) process for urban reserves in the Metro area only, it also required that "rural reserves" be designated in conjunction with urban reserves if Metro and one or more counties elected to utilize the new urban reserve process.

Senate Bill 1011 required that LCDC adopt rules to establish a process and criteria for designating Metro area urban and rural reserves. SB 1011, codified under ORS 195.137 through 195.145, took effect in July 2007 and specified that LCDC adopt implementing administrative rules by January 31, 2008. The commission adopted rules for this new process in January 2008 (see Attachment B).

Metro and the three Metro area counties adopted urban and rural reserves in June of this year, and the reserve designation has been submitted to DLCD for evaluation. Based on SB 1011, the agency must approve this designation under the requirements of the rules and statutes.

SB 1011 was supported by a broad coalition of interests in the region, and was based in part on research conducted under Metro's 2007 "Shape of the Region" study (see link below to Metro site). Metro joined with Washington, Multnomah, and Clackamas counties, DLCD and the Oregon Department of Agriculture (ODA), to conduct the "Shape of the Region" study "in order to better inform the region's approach to growth management and future urban expansion." The study examined land outside Metro's UGB and asked three broad questions:

- What lands are functionally critical to the region's agricultural economy?
- What natural landscape features are important in terms of ecological function and defining a sense of place for residents of the region?
- What attributes allow lands to most efficiently and effectively be integrated into the urban fabric of the region to create sustainable and complete communities?

B. Procedures and Standards for Designation of Metro Area Reserves

Urban reserves and rural reserves are implemented through an intergovernmental agreement between Metro and a county, and that agreement must provide for a coordinated and concurrent process for Metro to adopt regional framework plan provisions, and for the county to adopt comprehensive plan and zoning provisions, to implement the agreement.

Urban reserves provide for a 20 to 30-year future urban planning area beyond the 20-year urban growth boundary (UGB). In general, urban reserves could allow up to a 50 year plan for the urbanized area.¹ Under ORS 197.298, designated urban reserves are the highest priority of land that local governments (including Metro) must consider when a UGB is amended. SB 1011's preamble indicates that urban reserves are intended to provide "greater certainty for ... commerce, other industries, other private landowners and providers of public services, by determining the more and less likely locations of future expansion of urban growth boundaries and urban development." Urban reserves are further protected by rules under OAR 660-027-0070 that prohibit future comprehensive plan amendments to allow smaller lots or new land uses that were not allowed when the designations were made. The purpose of this limitation is "to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB." OAR 660-027-0070(2).

Rural Reserves had no precedent in Oregon law prior to SB 1011 and are authorized (voluntarily) for Metro area counties only. The statute indicates that rural reserves are intended to provide "greater certainty for ... the agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability." Under division 27, rural reserves are further intended "to provide long-term protection of important natural landscape features." Rural reserves, once designated, cannot be included within

¹ For the Metro area under division 27, the 20 to 30 year urban reserve is in addition to "the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296."

a UGB and cannot be re-designated as urban reserves for a period of time equal to the 40 to 50 year time period for urban reserves, described above. Rural reserves are further protected by rules under OAR 660-027-0070 that limit future plan amendments to land use regulations applied to the reserves.

C. Effect of Reserves on Future Decisions for the Region

After adoption of LCDC rules in 2008, the Metro regional governments began a process to designate reserves. A Reserves Steering Committee was established to identify potential urban and rural reserve study areas and advise the Metro Council and the commissions of Clackamas, Multnomah and Washington counties on the eventual designation of reserves. Designation of urban and rural reserves was through agreements between Metro and the counties, adopted in June of 2010.

The designation of urban and rural reserves will assist the Metro Council and local communities in the implementation of long range planning for the next fifty years. Lands in urban reserves are first priority for inclusion in the Metro UGB, if and when that boundary is amended over the approximately 50-year planning period. Furthermore, the reserves will assist the region in implementing the current 2040 Growth Concept, the region's long-range plan for managing growth that was adopted in 1995. The 2040 Growth Concept seeks to:

- encourage more efficient use of land in cities, in business centers, on main streets and on major transit routes
- protect natural areas, parks, streams and farmland both inside and outside the urban growth boundary
- promote a transportation system that includes all types of travel, such as bicycling, walking and using mass transit, as well as cars and freight
- work with neighboring cities outside of the Metro region – such as Canby, Newberg and Sandy – to keep the separation between communities
- promote diverse housing options for all residents of the region.

The “Shape of the Region” report, “symposium” and related studies are available on Metro’s website at the following link:

<http://www.metro-region.org/index.cfm/go/by.web/id=25147>

II. RECOMMENDED LCDC ACTION

This item is an informational briefing only and is not intended for LCDC action.

ATTACHMENTS

- A. SB 1011
- B. LCDC Administrative Rules for Urban and Rural Reserves (OAR 660, division 27)
- C. SB 1011 Legislative History

74th OREGON LEGISLATIVE ASSEMBLY--2007 Regular Session

Enrolled
Senate Bill 1011

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to land reserves; creating new provisions; amending ORS 195.145, 197.626 and 221.034; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2007 Act:

(1) "Rural reserve" means land reserved to provide long-term protection for agriculture, forestry or important natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains.

(2) "Urban reserve" means lands 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.

SECTION 2. The Legislative Assembly finds that:

(1) Long-range planning for population and employment growth by local governments can offer greater certainty for:

(a) The agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability; and

(b) Commerce, other industries, other private landowners and providers of public services, by determining the more and less likely locations of future expansion of urban growth boundaries and urban development.

(2) State planning laws must support and facilitate long-range planning to provide this greater certainty.

SECTION 3. (1) A county and a metropolitan service district established under ORS chapter 268 may enter into an intergovernmental agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate rural reserves pursuant to this section and urban reserves pursuant to ORS 195.145 (1)(b).

(2) Land designated as a rural reserve:

(a) Must be outside an urban growth boundary.

(b) May not be designated as an urban reserve during the urban reserve planning period described in ORS 195.145 (4).

(c) May not be included within an urban growth boundary during the period of time described in paragraph (b) of this subsection.

(3) When designating a rural reserve under this section to provide long-term protection to the agricultural industry, a county and a metropolitan service district shall base the des-

ignation on consideration of factors including, but not limited to, whether land proposed for designation as a rural reserve:

(a) Is situated in an area that is otherwise potentially subject to urbanization during the period described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary and to properties with fair market values that significantly exceed agricultural values;

(b) Is capable of sustaining long-term agricultural operations;

(c) Has suitable soils and available water where needed to sustain long-term agricultural operations; and

(d) Is suitable to sustain long-term agricultural operations, taking into account:

(A) The existence of a large block of agricultural or other resource land with a concentration or cluster of farms;

(B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses and the existence of buffers between agricultural operations and nonfarm uses;

(C) The agricultural land use pattern, including parcelization, tenure and ownership patterns; and

(D) The sufficiency of agricultural infrastructure in the area.

(4) The Land Conservation and Development Commission shall, after consultation with the State Department of Agriculture, adopt by goal or by rule a process and criteria for designating rural reserves pursuant to this section.

SECTION 4. (1) A county and a metropolitan service district must consider simultaneously the designation and establishment of:

(a) Rural reserves pursuant to section 3 of this 2007 Act; and

(b) Urban reserves pursuant to ORS 195.145 (1)(b).

(2) An agreement between a county and a metropolitan service district to establish rural reserves pursuant to section 3 of this 2007 Act and urban reserves pursuant to ORS 195.145 (1)(b) must provide for a coordinated and concurrent process for adoption by the county of comprehensive plan provisions and by the district of regional framework plan provisions to implement the agreement. A district may not designate urban reserves pursuant to ORS 195.145 (1)(b) in a county until the county and the district have entered into an agreement pursuant to ORS 195.145 (1)(b) that identifies the land to be designated by the district in the district's regional framework plan as urban reserves. A county may not designate rural reserves pursuant to section 3 of this 2007 Act until the county and the district have entered into an agreement pursuant to section 3 of this 2007 Act that identifies the land to be designated as rural reserves by the county in the county's comprehensive plan.

(3) A county and a metropolitan service district may not enter into an intergovernmental agreement to designate urban reserves in the county pursuant to ORS 195.145 (1)(b) unless the county and the district also agree to designate rural reserves in the county.

(4) Designation and protection of rural reserves pursuant to section 3 of this 2007 Act or urban reserves pursuant to ORS 195.145 (1)(b):

(a) Is not a basis for a claim for compensation under ORS 197.352 unless the designation and protection of rural reserves or urban reserves imposes a new restriction on the use of private real property.

(b) Does not impair the rights and immunities provided under ORS 30.930 to 30.947.

SECTION 5. (1) Sections 1 to 4 of this 2007 Act are added to and made a part of ORS chapter 195.

(2) ORS 195.145 is added to and made a part of sections 1 to 4 of this 2007 Act.

SECTION 6. ORS 195.145 is amended to read:

195.145. (1) To ensure that the supply of land available for urbanization is maintained[.];

(a) Local governments may cooperatively designate lands outside urban growth boundaries as [*urban reserve areas, subject to ORS 197.610 to 197.625.*] **urban reserves subject to ORS 197.610 to 197.625.**

(b) Alternatively, a metropolitan service district established under ORS chapter 268 and a county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

(2)(a) The Land Conservation and Development Commission may require a local government to designate an urban reserve [area] **pursuant to subsection (1)(a) of this section** during its periodic review in accordance with the conditions for periodic review under ORS 197.628.

(b) Notwithstanding paragraph (a) of this subsection, the commission may require a local government to designate an urban reserve [area] **pursuant to subsection (1)(a) of this section** outside of its periodic review if:

(A) The local government is located inside a Primary Metropolitan Statistical Area or a Metropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

(B) The local government has been required to designate an urban reserve [area] by rule prior to November 4, 1993.

(3) In carrying out subsections (1) and (2) of this section:

(a) Within an urban reserve [area], neither the commission nor any local government shall prohibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed under law existing prior to designation as an urban reserve [area].

(b) The commission shall provide to local governments a list of options, rather than prescribing a single planning technique, to ensure the efficient transition from rural to urban use in urban reserve [areas].

[(4) For purposes of this section, "urban reserve area" means lands 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 service within the area when the lands are included within the urban growth boundary].

(4) Urban reserves designated by a metropolitan service district and a county pursuant to subsection (1)(b) of this section must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296.

(5) A district and a county shall base the designation of urban reserves under subsection (1)(b) of this section upon consideration of factors including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

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

(b) Includes sufficient development capacity to support a healthy urban economy;

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

(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;

(e) Can be designed to preserve and enhance natural ecological systems; and

(f) Includes sufficient land suitable for a range of housing types.

(6) The commission shall adopt by goal or by rule a process and criteria for designating urban reserves pursuant to subsection (1)(b) of this section.

SECTION 7. ORS 197.626 is amended to read:

197.626. A metropolitan service district that amends its urban growth boundary to include more than 100 acres, or **that amends the district's regional framework plan or land use regulations implementing the plan to establish urban reserves designated under ORS 197.145 (1)(b)**, a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth

boundary to include more than 50 acres or that designates urban reserve [*areas*] under ORS 195.145, **or a county that amends the county's comprehensive plan or land use regulations implementing the plan to establish rural reserves designated under section 3 of this 2007 Act**, shall submit the amendment or designation to the Land Conservation and Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650.

SECTION 8. ORS 221.034 is amended to read:

221.034. (1) As used in this section:

(a) "Neighboring city" means a city that has any part of its territory situated within three miles of the area proposed to be incorporated.

(b) "Rural unincorporated community" means a settlement with a boundary identified in an acknowledged comprehensive plan of a county and that:

(A) Is made up primarily of lands subject to an exception to statewide planning goals related to agricultural lands or forestlands;

(B) Either was identified in the acknowledged comprehensive plan of a county as a "rural community," "service center," "rural center," "resort community" or similar term before October 28, 1994, or is listed in the Department of Land Conservation and Development's "Survey of Oregon Unincorporated Communities" (January 30, 1997);

(C) Lies outside the urban growth boundary of a city or a metropolitan service district; and

(D) Is not incorporated as a city.

(c) "Urban reserve [*area*]" has the meaning given that term in [*ORS 195.145*] **section 1 of this 2007 Act**.

(d) "Urban services" has the meaning given that term in ORS 195.065.

(2) When any of the area proposed to be incorporated as a city lies within an urbanized area, but outside the urban growth boundary of a city or a metropolitan service district:

(a) The area proposed to be incorporated must also be located entirely within a designated rural unincorporated community and contiguous lands subject to an exception to statewide planning goals related to agricultural lands or forestlands.

(b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief petitioner, stating that:

(A) Ten percent of the electors registered within the area proposed for incorporation favor the incorporation; and

(B) The chief petitioners have engaged the neighboring cities in discussions concerning the effects of the proposed incorporation, including discussions specifically relating to how those cities and the proposed city will allow for expansion of urban growth boundaries and, where applicable, for creation or expansion of urban [*reserve areas*] **reserves**.

(c) The economic feasibility statement required by ORS 221.035 must:

(A) Indicate that the proposed city must plan for and provide urban services in a cost-effective manner at the minimum level adequate to meet current needs and projected growth;

(B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban services; and

(C) Indicate that the proposed city must plan for residential development at or above the same urban density planned for an existing city, within the county, that has a similar geographic area within the existing city's urban growth boundary or, for a proposed city within three miles of Metro's boundary, a minimum urban residential density in accordance with a statewide planning goal and rules pertaining to needed housing for cities within Metro's urban growth boundary.

(d) If the proposed city will be required to complete a public facility plan and a transportation systems plan, the proposed city must demonstrate the ability to provide urban services to meet current needs and projected growth. The proposed city may meet this requirement, in whole or in part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060, to provide the urban services.

(3) If the governing body of a neighboring city determines that the proposed incorporation adversely affects that city, the governing body may ask the county court with which the petition for

incorporation was filed to reject the petition and terminate the incorporation proceedings. The objections by the city to the incorporation shall be heard and considered by the county court at a public hearing held under ORS 221.040.

(4) If, at the hearing held under ORS 221.040, the county court finds that any of the requirements of subsection (2) of this section are not met or that the proposed incorporation will adversely affect a neighboring city, the county court shall provide by order for the termination of the incorporation proceedings. The order shall contain the findings of the county court relating to the proposed incorporation and the reasons for terminating the incorporation proceedings.

(5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall review, upon the petition of a party to the incorporation proceedings, the order of the county court under subsection (4) of this section.

SECTION 9. (1) Notwithstanding ORS 197.650, a Land Conservation and Development Commission order concerning the designation of urban reserves under ORS 195.145 (1)(b) or rural reserves under section 3 of this 2007 Act may be appealed to the Court of Appeals by the persons described in ORS 197.650.

(2) Judicial review of orders described in subsection (1) of this section is as provided in this section.

(3) Jurisdiction for judicial review is conferred upon the Court of Appeals. A proceeding for judicial review may be instituted by filing a petition in the Court of Appeals. The petition must be filed within 21 days after the date the commission delivered or mailed the order upon which the petition is based.

(4) The filing of the petition, as set forth in subsection (3) of this section, and service of a petition on the persons who submitted oral or written testimony in the proceeding before the commission are jurisdictional and may not be waived or extended.

(5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies of the petition must be served by registered or certified mail upon the commission and the persons who submitted oral or written testimony in the proceeding before the commission.

(6) Within 21 days after service of the petition, the commission shall transmit to the Court of Appeals the original or a certified copy of the entire record of the proceeding under review. However, by stipulation of the parties to the review proceeding, the record may be shortened. The Court of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the additional costs. The Court of Appeals may require or permit subsequent corrections or additions to the record. Except as specifically provided in this subsection, the Court of Appeals may not tax the cost of the record to the petitioner or an intervening party. However, the Court of Appeals may tax the costs to a party that files a frivolous petition for judicial review.

(7) Petitions and briefs must be filed within time periods and in a manner established by the Court of Appeals by rule.

(8) The Court of Appeals shall:

(a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court of Appeals determines that the ends of justice served by holding oral argument on a later day outweigh the best interests of the public and the parties. However, the Court of Appeals may not hold oral argument more than 49 days after the date of transmittal of the record because of general congestion of the court calendar or lack of diligent preparation or attention to the case by a member of the court or a party.

(b) Set forth in writing and provide to the parties a determination to hear oral argument more than 49 days from the date the record is transmitted, together with the reasons for the determination. The Court of Appeals shall schedule oral argument as soon as is practicable.

(c) Consider, in making a determination under paragraph (b) of this subsection:

(A) Whether the case is so unusual or complex, due to the number of parties or the existence of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief the case and for the Court of Appeals to prepare for oral argument; and

(B) Whether the failure to hold oral argument at a later date likely would result in a miscarriage of justice.

(9) The court:

(a) Shall limit judicial review of an order reviewed under this section to the record.

(b) May not substitute its judgment for that of the Land Conservation and Development Commission as to an issue of fact.

(10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section. The Court of Appeals shall reverse or remand the order only if the court finds the order is:

(a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal or remand unless the Court of Appeals determines that substantial rights of the petitioner were prejudiced.

(b) Unconstitutional.

(c) Not supported by substantial evidence in the whole record as to facts found by the commission.

(11) The Court of Appeals shall issue a final order on the petition for judicial review with the greatest possible expediency.

(12) If the order of the commission is remanded by the Court of Appeals or the Supreme Court, the commission shall respond to the court's appellate judgment within 30 days.

SECTION 10. Notwithstanding ORS 195.145 (4), if urban reserves are designated by a metropolitan service district and a county pursuant to ORS 195.145 (1)(b) on or before December 31, 2009, the urban reserves must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the next inventory, determination and analysis required under ORS 197.299 on or after the effective date of this 2007 Act.

SECTION 11. The Land Conservation and Development Commission shall adopt the goals or rules required by section 3 of this 2007 Act and by the amendments to ORS 195.145 by section 6 of this 2007 Act not later than January 31, 2008.

SECTION 12. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate May 9, 2007

Repassed by Senate June 13, 2007

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Secretary of Senate

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President of Senate

Passed by House June 11, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State

The Oregon Administrative Rules
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT
Amendments effective April 30, 2010
DIVISION 27

URBAN AND RURAL RESERVES IN THE PORTLAND METROPOLITAN AREA

660-027-0005

Purpose and Objective

(1) This division is intended to implement the provisions of Oregon Laws 2007, chapter 723 regarding the designation of urban reserves and rural reserves in the Portland metropolitan area. This division provides an alternative to the urban reserve designation process described in OAR chapter 660, division 21. This division establishes procedures for the designation of urban and rural reserves in the metropolitan area by agreement between and among local governments in the area and by amendments to the applicable regional framework plan and comprehensive plans. This division also prescribes criteria and factors that a county and Metro must apply when choosing lands for designation as urban or rural reserves.

(2) Urban reserves designated under this division are intended to facilitate long-term planning for urbanization in the Portland metropolitan area and to provide greater certainty to the agricultural and forest industries, to other industries and commerce, to private landowners and to public and private service providers, about the locations of future expansion of the Metro Urban Growth Boundary. Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.

Stat. Auth.: ORS 195.141, 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0010

Definitions

The definitions contained in ORS chapters 195 and 197 and the Statewide Planning Goals (OAR chapter 660, division 15) apply to this division, unless the context requires otherwise. In addition, the following definitions apply:

(1) "Foundation Agricultural Lands" means those lands mapped as Foundation Agricultural Lands in the January 2007 Oregon Department of Agriculture report to Metro entitled "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands."

(2) "Important Agricultural Lands" means those lands mapped as Important Agricultural Lands in the January 2007 Oregon Department of Agriculture report to Metro entitled "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands."

(3) "Intergovernmental agreement" means an agreement between Metro and a county pursuant to applicable requirements for such agreements in ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658, and in accordance with the requirements in this division regarding the designation of urban and rural reserves and the performance of related land use planning and other activities pursuant to such designation.

(4) "Livable communities" means communities with development patterns, public services and infrastructure that make them safe, healthy, affordable, sustainable and attractive places to live and work.

(5) "Metro" means a metropolitan service district organized under ORS chapter 268.

(6) "Important natural landscape features" means landscape features that limit urban development or help define appropriate natural boundaries of urbanization, and that thereby provide for the long-term protection and enhancement of the region's natural resources, public health and safety, and unique sense of place. These features include, but are not limited to, plant, fish and wildlife habitat; corridors important for ecological, scenic and recreational connectivity; steep slopes, floodplains and other natural hazard lands; areas critical to the region's air and water quality; historic and cultural areas; and other landscape features that define and distinguish the region.

(7) "Public facilities and services" means sanitary sewer, water, transportation, storm water management facilities and public parks.

(8) "Regional framework plan" means the plan adopted by Metro pursuant to ORS 197.015(17).

(9) "Rural reserve" means lands outside the Metro UGB, and outside any other UGB in a county with which Metro has an agreement pursuant to this division, reserved to provide long-term protection for agriculture, forestry or important natural landscape features.

(10) "UGB" means an acknowledged urban growth boundary established under Goal 14 and as defined in ORS 195.060(2).

(11) "Urban reserve" means lands outside an urban growth boundary designated to provide for future expansion of the UGB over a long-term period and to facilitate planning for the cost-effective provision of public facilities and services when the lands are included within the urban growth boundary.

(12) "Walkable" describes a community in which land uses are mixed, built compactly, and designed to provide residents, employees and others safe and convenient pedestrian access to

schools, offices, businesses, parks and recreation facilities, libraries and other places that provide goods and services used on a regular basis.

Stat. Auth.: ORS 195.141, 197.040
Stats. Implemented: ORS 195.137 - 195.145
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0020

Authority to Designate Urban and Rural Reserves

(1) As an alternative to the authority to designate urban reserve areas granted by OAR chapter 660, division 21, Metro may designate urban reserves through intergovernmental agreements with counties and by amendment of the regional framework plan to implement such agreements in accordance with the requirements of this division.

(2) A county may designate rural reserves through intergovernmental agreement with Metro and by amendment of its comprehensive plan to implement such agreement in accordance with the requirements of this division.

(3) A county and Metro may not enter into an intergovernmental agreement under this division to designate urban reserves in the county unless the county and Metro simultaneously enter into an agreement to designate rural reserves in the county.

Stat. Auth.: ORS 195.141, 197.040
Stats. Implemented: ORS 195.137 - 195.145
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0030

Urban and Rural Reserve Intergovernmental Agreements

(1) An intergovernmental agreement between Metro and a county to establish urban reserves and rural reserves under this division shall provide for a coordinated and concurrent process for Metro to adopt regional framework plan provisions, and for the county to adopt comprehensive plan and zoning provisions, to implement the agreement. The agreement shall provide for Metro and the county to concurrently designate urban reserves and rural reserves, as specified in OAR 660-027-0040.

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

(3) An intergovernmental agreement made under this division shall be deemed a preliminary decision that is a prerequisite to the designation of reserves by amendments to Metro's regional

framework plan and amendments to a county's comprehensive plan pursuant to OAR 660-027-0040. Any intergovernmental agreement made under this division shall be submitted to the Commission with amendments to the regional framework plan and county comprehensive plans as provided in OAR 660-027-0080(2) through (4).

Stat. Auth.: ORS 195.141, 197.040
Stats. Implemented: ORS 195.137 - 195.145
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0040
Designation of Urban and Rural Reserves

(1) Metro may not designate urban reserves under this division in a county until Metro and applicable counties have entered into an intergovernmental agreement that identifies the lands to be designated by Metro as urban reserves. A county may not designate rural reserves under this division until the county and Metro have entered into an agreement that identifies the lands to be designated by the county as rural reserves.

(2) Urban reserves designated under this division shall be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land, based on the estimated land supply necessary for urban population and employment growth in the Metro area for that number of years. The 20 to 30-year supply of land specified in this rule shall consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro in accordance with OAR 660-027-0030.

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

(4) Neither Metro nor a local government may amend a UGB to include land designated as rural reserves during the period described in section (2) or (3) of this rule, whichever is applicable.

(5) Metro shall not re-designate rural reserves as urban reserves, and a county shall not re-designate land in rural reserves to another use, during the period described in section (2) or (3) of this rule, whichever is applicable.

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

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

(8) When evaluating and designating land for urban reserves, Metro and a county shall apply the factors of OAR 660-027-0050 and shall coordinate with cities, special districts and school districts that might be expected to provide urban services to these reserves when they are added to the UGB, and with state agencies.

(9) When evaluating and designating land for rural reserves, Metro and a county shall apply the factors of OAR 660-027-0060 and shall coordinate with cities, special districts and school districts in the county, and with state agencies.

(10) Metro and any county that enters into an agreement with Metro under this division shall apply the factors in OAR 660-027-0050 and 660-027-0060 concurrently and in coordination with one another. Metro and those counties that lie partially within Metro with which Metro enters into an agreement shall adopt a single, joint set of findings of fact, statements of reasons and conclusions explaining why areas were chosen as urban or rural reserves, how these designations achieve the objective stated in OAR 660-027-0005(2), and the factual and policy basis for the estimated land supply determined under section (2) of this rule.

(11) Because the January 2007 Oregon Department of Agriculture report entitled "Identification and Assessment of the Long-Term Commercial viability of Metro Region Agricultural Lands" indicates that Foundation Agricultural Land is the most important land for the viability and vitality of the agricultural industry, if Metro designates such land as urban reserves, the findings and statement of reasons shall explain, by reference to the factors in OAR 660-027-0050 and 660-027-0060(2), why Metro chose the Foundation Agricultural Land for designation as urban reserves rather than other land considered under this division.

Stat. Auth.: ORS 195.141, 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0050

Factors for Designation of Lands as Urban Reserves

Urban Reserve Factors: When identifying and selecting lands for designation as urban reserves under this division, Metro shall base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB:

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

(2) Includes sufficient development capacity to support a healthy economy;

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

(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

(5) Can be designed to preserve and enhance natural ecological systems;

(6) Includes sufficient land suitable for a range of needed housing types;

(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.

Stat. Auth.: ORS 195.141, 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0060

Factors for Designation of Lands as Rural Reserves

(1) When identifying and selecting lands for designation as rural reserves under this division, a county shall indicate which land was considered and designated in order to provide long-term protection to the agriculture and forest industries and which land was considered and designated to provide long-term protection of important natural landscape features, or both. Based on this choice, the county shall apply the appropriate factors in either section (2) or (3) of this rule, or both.

(2) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to provide long-term protection to the agricultural industry or forest industry, or both, a county shall base its decision on consideration of whether the lands proposed for designation.

(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described in OAR 660-027-0040(2) or (3) as indicated by proximity to a UGB or proximity to properties with fair market values that significantly exceed agricultural values for farmland, or forestry values for forest land;

(b) Are capable of sustaining long-term agricultural operations for agricultural land, or are capable of sustaining long-term forestry operations for forest land;

(c) Have suitable soils where needed to sustain long-term agricultural or forestry operations and, for agricultural land, have available water where needed to sustain long-term agricultural operations; and

(d) Are suitable to sustain long-term agricultural or forestry operations, taking into account:

(A) for farm land, the existence of a large block of agricultural or other resource land with a concentration or cluster of farm operations, or, for forest land, the existence of a large block of forested land with a concentration or cluster of managed woodlots;

(B) The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses;

(C) The agricultural or forest land use pattern, including parcelization, tenure and ownership patterns; and

(D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is applicable.

(3) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to protect important natural landscape features, a county must consider those areas identified in Metro's February 2007 "Natural Landscape Features Inventory" and other pertinent information, and shall base its decision on consideration of whether the lands proposed for designation:

(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described OAR 660-027-0040(2) or (3);

(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;

(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, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses

(g) Provide for separation between cities; and

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

(4) Notwithstanding requirements for applying factors in OAR 660-027-0040(9) and section (2) of this rule, a county may deem that Foundation Agricultural Lands or Important Agricultural Lands within three miles of a UGB qualify for designation as rural reserves under section (2) without further explanation under OAR 660-027-0040(10).

Stat. Auth.: ORS 195.141, 197.040
Stats. Implemented: ORS 195.137 - 195.145
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0070

Planning of Urban and Rural Reserves

(1) Urban reserves are the highest priority for inclusion in the urban growth boundary when Metro expands the UGB, as specified in Goal 14, OAR chapter 660, division 24, and in ORS 197.298.

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend **comprehensive plan provisions or** land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB.

(3) Counties that designate rural reserves under this division shall not amend [~~their~~] **comprehensive plan provisions or** land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves.

(4) Notwithstanding the prohibitions in sections (2) and (3) of these rules, counties may adopt or amend comprehensive plan provisions or land use regulations as they apply to lands in urban reserves, rural reserves or both, unless an exception to Goals 3, 4, 11 or 14 is required, in order to allow:

(a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23, or inventoried cultural resources as provided under OAR chapter 660, division 16;

(b) Public park uses, subject to the adoption or amendment of a park master plan as provided in OAR chapter 660, division 34;

(c) Roads, highways and other transportation and public facilities and improvements, as provided in ORS 215.213 and 215.283, OAR 660-012-0065, and OAR 660-033-0130 (agricultural land) or OAR chapter 660, division 6 (forest lands);

(d) Uses and land divisions that are allowed by state statute or administrative rule at the time of the designation of urban and rural reserves.

~~(4)~~**(5)** Counties, cities and Metro may adopt **and amend** conceptual plans for the eventual urbanization of urban reserves designated under this division, including plans for eventual provision of public facilities and services, **roads, highways and other transportation facilities**, and may enter into urban service agreements among cities, counties and special districts serving or projected to serve the designated urban reserve area.

~~(5)~~**(6)** Metro shall ensure that lands designated as urban reserves, considered alone or in conjunction with lands already inside the UGB, are ultimately planned to be developed in a manner that is consistent with the factors in OAR 660-027-0050.

Stat. Auth.: ORS 195.141, 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08; LCDD 4-2010 f. & cert. ef. 4-30-10

660-027-0080

Local Adoption and Commission Review of Urban and Rural Reserves

(1) Metro and county adoption or amendment of plans, policies and other implementing measures to designate urban and rural reserves shall be in accordance with the applicable procedures and requirements of ORS 197.610 to 197.650.

(2) After designation of urban and rural reserves, Metro and applicable counties shall jointly and concurrently submit their adopted or amended plans, policies and land use regulations implementing the designations to the Commission for review and action in the manner provided for periodic review under ORS 197.628 to 197.650.

(3) Metro and applicable counties shall:

(a) Transmit the intergovernmental agreements and the submittal described in section (2) in one or more suitable binders showing on the outside a title indicating the nature of the submittal and identifying the submitting jurisdictions.

(b) Prepare and include an index of the contents of the submittal. Each document comprising the submittal shall be separately indexed, and

(c) Consecutively number pages of the submittal at the bottom of the page, commencing with the first page of the submittal.

(4) The joint and concurrent submittal to the Commission shall include findings of fact and conclusions of law that demonstrate that the adopted or amended plans, policies and other implementing measures to designate urban and rural reserves comply with this division, the applicable statewide planning goals, and other applicable administrative rules. The Commission shall review the submittal for:

(a) Compliance with the applicable statewide planning goals. Under ORS 197.747 "compliance with the goals" means the submittal on the whole conforms with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature. To determine compliance with the Goal 2 requirement for an adequate factual base, the Commission shall consider whether the submittal is supported by substantial evidence. Under ORS 183.482(8)(c), substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding;

(b) Compliance with applicable administrative rules, including but not limited to the objective provided in OAR 660-027-0005(2) and the urban and rural reserve designation standards provided in OAR 660-027-0040; and

(c) Consideration of the factors in OAR 660-027-0050 or 660-027-0060, whichever are applicable.

Stat. Auth.: ORS 195.141, 197.040

Stats. Implemented: ORS 195.137 - 195.145

Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

Senate Bill 1011
Section-by-Section Explanation
(As amended by the –A8 amendments)
May 29, 2007

Overall Summary

Senate Bill 1011 is intended to address deficiencies in the current growth management and urban growth boundary (UGB) expansion process in the Portland metropolitan area. Existing state law governing both UGB expansion and long-term planning tends to push urbanization onto lands that are not necessarily the most suitable for efficient, cost-effective urbanization, and does not provide long-term protection for the region's most important farm and forest land.

SB 1011 addresses these problems by establishing a system under which the region can designate lands outside its UGB on which urban expansion will and will not occur over a 40-50-year period. The bill has three main elements:

- Section 3 authorizes the establishment of rural reserves that will be off-limits to urban expansion during a 40-50-year planning period. These lands would be selected based upon their importance to the agriculture and forestry industries and to the protection of natural systems and landscape features.
- Section 6 provides a new pathway for the creation of urban reserves – areas that would be first in line for addition to the UGB – in the Portland metropolitan area. This new pathway would authorize the designation of urban reserves that, in conjunction with land already in the UGB, would provide 40-50 years of capacity for urban growth. Designation of these areas would be based upon a set of factors that emphasizes suitability for urban development.
- Because it is important that urban and rural reserves be addressed as part of an integrated planning process, Section 4 stipulates that they must be considered concurrently and may be designated only through agreements between Metro and counties.

Section 1

This section defines “rural reserve” and “urban reserve.” The definition of rural reserve contemplates three kinds of rural reserves: those intended to protect agriculture; those intended to protect forestry, and those intended to protect landscape features that can or should limit the expansion of urban development. It is understood, however, that a rural reserve could have more than one of these functions. The definition of “urban reserve” is taken from existing law and simply relocated.

Section 2

This section sets forth the findings of the Legislature about the benefits of long-range planning for growth.

Section 3

Subsection (1): authorizes counties and Metro to establish urban and rural reserves. An agreement among Metro and *all* counties a portion of which lies within the Metro UGB is not a prerequisite to an agreement between Metro and one county. The subsection cites the statutes that authorize intergovernmental agreements in general, leaving the parties to choose the appropriate type of agreement.

Subsection (2): provides that rural reserves must be outside any UGB. The subsection also prescribes a period of time during which a county may not re-designate rural reserves as urban reserves: the UGB planning period *plus* the urban reserve planning period. The urban reserve planning period will be determined in the intergovernmental agreement in accordance with subsection (4) of section 6 or section 10 (see below). But it must be at least 20 years, and no longer than 30 years, beyond the UGB planning period. Assuming passage of House Bill 2051 – which extends the time for Metro’s next UGB capacity analysis (currently due December, 2007) to December, 2009 – Metro will use the 20-year planning period of that next analysis (2009-2029) to determine the total period described by this subsection. This means the total period will be at least 40 years, and not more than 50 years, from 2009. This subsection also provides that land designated rural reserves cannot be included within any UGB for the same period (40-50 years).

Subsection (3): specifies factors that must be considered by counties establishing rural reserves for protection of agricultural land. These factors derive from the work done for the region by the Oregon Department of Agriculture entitled “Identification of Metro Region Agricultural Lands and Assessing Their Long-Term Commercial Viability.” The factors were written into the bill to provide more detailed guidance to LCDC, which requested the guidance to aid and speed the rulemaking required by subsection (4) of this section. The list of factors is not intended to be exclusive; LCDC remains free to require consideration of other factors in rulemaking.

Subsection (4): requires LCDC to adopt or revise a goal or a rule to establish a process and criteria for establishment of rural reserves consistent with the bill. The subsection requires LCDC to consult with the Oregon Department of Agriculture during its rulemaking. The deadline for the rulemaking – January 31, 2008 – is found in section 11 of the bill.

Section 4

Subsection (1): directs the counties and Metro to consider the establishment of rural and urban reserves simultaneously. The purpose is to ensure coordination of the planning of both types of reserves and consideration of the relationships between them.

Subsection (2): requires coordination and concurrency of the planning and designation of urban and rural reserves, including the adoption of county comprehensive plan provisions that designate and protect rural reserves, and county comprehensive plan provisions and Regional Framework Plan policies that designate and protect urban reserves. The subsection expressly prohibits the designation by Metro of urban reserves in a county until Metro and the county have signed an intergovernmental agreement that identifies the land that will be designated by the county as rural reserves under the agreement. Conversely, the subsection expressly prohibits the

designation by a county of rural reserves until Metro and the county have signed an intergovernmental agreement that identifies the land in the county, if any, that will be designated by Metro as urban reserves under the agreement. It is anticipated that the agreement between Metro and a county would, at the time of signing, include a map or maps of rural and urban reserves in the county, as agreed, and would set a schedule for adoption by each of implementation actions to occur as simultaneously as possible.

Subsection (3): provides that Metro and a county cannot agree to designate urban reserves in the county under this new process unless they also agree to designate rural reserves in that county.

Subsection (4): provides that the designation of rural or urban reserves under SB 1011 does not give rise to a Measure 37 claim so long as neither the county nor Metro imposes new restrictions on the use of private real property. Comprehensive plan amendments and Regional Framework Plan policies adopted pursuant to subsection (2) of this section do not, in and of themselves, constitute restrictions on the use of private real property. The subsection also protects existing rights and immunities provided by Oregon's "right to farm" law.

Section 5

This section makes only conforming amendments.

Section 6

This section amends the statute that currently authorizes local governments to establish "urban reserves."

Subsection (1): paragraph (b) makes clear that the authorization in this bill to establish urban reserves by intergovernmental agreement is an alternative to designation under existing statutes on urban reserves. The paragraph is intended to ensure that LCDC will adopt a new and independent rule to implement this bill. It is not intended to limit the authority of any local government to designate urban reserves pursuant to paragraph (a) of this subsection.

Subsection (2): makes conforming amendments to confirm that the bill establishes a new and independent method for designation of urban reserves by Metro and counties of the region.

Subsection (3): makes only conforming amendments.

Subsection (4): specifies that urban reserves designated pursuant to this bill must be for a period no less than 20 years, and no more than 30 years, beyond the UGB planning period. The UGB planning period of the most recent capacity analysis under ORS 197.296 at the time of designation would be used to determine the total planning period. This general provision, however, does not apply to any urban reserve designation prior to December 31, 2009. Section 10 requires a specific UGB planning period for urban reserves designated before this date.

Subsection (5): specifies factors that must be considered by local governments establishing urban reserves under the bill. These factors derive from the work done by local governments in the region entitled "Great Communities" (see the eight "Great Community

Characteristics” in “Great Communities: Executive Summary, January, 2007). The factors were written into the bill to provide more detailed guidance to LCDC, which requested the guidance to aid and speed the rulemaking required by subsection (6) of this section. The list of factors is not intended to be exclusive; LCDC remains free to require consideration of other factors in rulemaking. The objective of including these factors is to create an avenue for the designation of urban reserves that is based principally on the suitability of land for eventual urban development.

Subsection (6): requires LCDC to adopt a rule to establish a process and criteria for the new method of establishing urban reserves in the Metro area under the bill. The deadline for the rulemaking – January 31, 2008 – is found in section 11 of the bill.

Section 7

This section makes the designation of rural reserves a matter for periodic review. The reason is that state law already makes any designation by Metro of urban reserves a matter for periodic review. It is essential that the designation of urban reserves and rural reserves be closely coordinated and as close to simultaneous as possible. If Metro designation of urban reserves goes to LCDC, with appeal to the Court of Appeals, and county designation of rural reserves is appealed to LUBA – as would be the normal route without this section – it would be nearly impossible to ensure a coordinated result. This amendment would allow simultaneous review by LCDC of both the urban and the rural reserves.

Section 8

This section makes only conforming amendments.

Section 9

This section directs that any appeal of an LCDC order following review of the designation of urban and rural reserves by Metro and the counties would go to the Court of Appeals. The section also provides that the court will follow the same timelines for such appeals as the court currently follows when reviewing appeals of LUBA decisions. This is to prevent the appeals process from delaying the use by Metro of urban reserves in any UGB expansion needed after the 2009 UGB capacity analysis (required by passage of House Bill 2051).

Section 10

This section provides that any urban reserve designation prior to December 31, 2009 will use the UGB planning period of the *next* UGB capacity analysis required by ORS 197.299 when calculating the total planning period under the Act. Given passage of HB 2051, this means that the UGB planning period will be 2009 –2029 and the total planning period will be at least 20 years beyond 2029.

Section 11

This section sets a January 31, 2008, deadline for rulemaking on rural and urban reserves pursuant to the bill. The deadline is intended to ensure completion of LCDC rulemaking prior to completion of long-range planning by Metro and the local governments of the region, which is expected to result in agreements to establish rural reserves and urban reserves prior to Metro’s next UGB capacity analysis.

Section 12

An “emergency clause” makes the bill effective upon passage. This is necessary because of the January 31, 2008, deadline for completion of reserves rulemaking. The rulemaking deadline, in turn, is necessary in order to allow Metro to fulfill its responsibilities under ORS 197.299 and ORS 197.296, as amended by HB 2051.