Proposed Revisions to draft #2 of M49 TDC Rules
The following proposed revisions to draft #2 of M49 TDC rules (now reflected in draft #3) derive in part from previous RAC discussions and in part from DLCD staff analysis. We submit them for your consideration and discussion.

Significant revisions are highlighted in the draft rule and listed below:

1. Require legal access to be possible for sending area properties – 0030(1)(b)
2. Revision and refinement to the bonus categories and receiving area exclusions – 0040(3) and 0080(4)(d) through (i)
3. An additional bonus based on the size of the parcel being protected from development – 0040(4)
4. Distinguish between two types of credits to prevent credits from moving into rural reserves in Clackamas, Multnomah and Washington counties – 0040(5)
5. Distinguish between two types of credits to prevent credits from moving into the coastal areas of Douglas and Lane Counties – 0040(6)
6. Allow claimants with 20+ acres to use a restrictive covenant if an easement holder can’t be found – 0060(3)
7. Delete the receiving area option for partitioning a lot or parcel with two dwellings - 0080
8. Require that receiving areas in substantially built subdivisions meet the reasons exception test – 0080(2)(e)
9. Receiving areas must meet the review standards of ORS 215.296 – 0080(3)(a)
   “...the use will not:
   (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
   (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.” https://www.oregonlegislature.gov/bills_laws/ors/ors215.html
10. Amend the rural residential receiving area standards to limit density to the average lot size within a half-mile – 0090(3)
Other revisions include
11. Delete the reference to the model M49 TDC ordinance
12. Substitute restrictive covenant for deed restriction
13. Allow counties to exclude properties from sending areas for reasons other than buildability
14. Clarify that a sending property with a pre-existing dwelling can still qualify for bonus credits
15. Eliminate bonus credit for a rural reserve sending area location
16. Create a section for the process of transferring TDCs – 0070
17. Specify that receiving areas may not be sending areas
18. Delete the section on TDR record keeping
19. Delete section on buy back of TDCs

Receiving areas
The only way that we can legally allow substantially built subdivisions to be receiving areas is if we require them to meet a new type of reasons exception test that we will develop for division 4 (Exceptions).

There is no legal way that we can allow the partition of a lot or parcel with two dwellings without amending statute. This option may be possible in a future phase.

If we require that receiving areas meet the farm compatibility standards of ORS 215.296 when designated, this should mean that no rule changes to division 27 (Rural Reserves) will be necessary; in addition, it provides further assurance of the selection of appropriate receiving areas.

Prepared December 4, 2014 by DLCD Staff:

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