

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 27

Draft Rules September 20, 2007

URBAN RESERVES IN THE PORTLAND METROPOLITAN AREA

1 **660-027-0005**

2 **Purpose**

3
4 This division is intended to implement the provisions of 2007 Oregon Laws Chapter 723¹
5 regarding **the designation of urban reserves** in the Portland metropolitan area. **This**
6 **division provides an alternative to the urban reserve designation process and**
7 **criteria described in OAR 660, division 21. Urban reserves under this division** are
8 intended to facilitate long-term planning for urbanization in the Portland metropolitan
9 area and to provide greater certainty to the agricultural and forest industries, to other
10 industries and commerce, to private landowners and to public and private service
11 providers about the locations of future expansion of the UGB. This division establishes
12 procedures for the designation of urban reserves in the Portland metropolitan area, by
13 agreements between and among local governments in the area, **and by amendments to**
14 **applicable framework plans and comprehensive plans.** This division also prescribes
15 factors **and other applicable criteria** that local governments must consider when
16 choosing lands for designation as urban reserves.

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18 **660-027-0010**

19 **Definitions**

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21 The definitions contained in **ORS 195 and 197** and the Statewide Planning Goals (OAR
22 Chapter 660, Division 015) apply to this division. The following definitions also apply:

23
24 (1) “Intergovernmental agreement” means an agreement made pursuant to ORS 190.003
25 to 190.130, 195.025 or 197.652 to 197.658.² A unit of local government may enter into a
26 written agreement with any other unit or units of local government for the performance of
27 any or all functions and activities that a party to the agreement, its officers or agencies,
28 have authority to perform.

29
30 (2) “Metro” means a metropolitan service district established under ORS chapter 268.

31
32 (3) “Regional framework plan” means the plan adopted by Metro pursuant to ORS
33 chapter 268.

¹ Senate Bill 1011

² Even though these various statutes are cited in SB 1011, they do not seem to provide any criteria applicable to the Metro and County agreements contemplated under SB 1011. We also note that SB 1011, Section 3(1), is worded in a manner that could be read to indicate that urban reserve agreements must be in accord with ORS 195.145(1)(b), and that the run of statutes cited here only apply to rural reserves. DLCDC believes that would be an incorrect reading of the statute, especially since ORS 195.145(1)(b) provides no standards for agreements.

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

6
7 (5) “UGB” means an urban growth boundary established under Statewide Planning Goal
8 14 (Urbanization).³

9
10 (6) “Urban reserve” means land outside an urban growth boundary that will provide for:
11 (a) Future expansion over a long-term period; and
12 (b) The cost-effective provision of public facilities and services within the area when the
13 lands are included within the urban growth boundary.

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15 **660-027-0020**

16 **Authority to Designate Urban Reserves**

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18 As an alternative to the authority to designate urban reserve areas granted by OAR 660,
19 division 021, Metro **and counties in the Portland metropolitan area** may designate
20 urban reserves by intergovernmental agreement **and by amendment of applicable**
21 **comprehensive plans and the regional framework plans in accordance with the**
22 **process and criteria specified** in this division.

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24 **660-027-0030**

25 **Urban Reserve Intergovernmental Agreements**

26 (1) An intergovernmental agreement between Metro and a county to establish urban
27 reserves under this division shall provide for a coordinated and concurrent process for
28 adoption by the county of comprehensive plan provisions and by Metro of regional
29 framework plan provisions to implement the agreement. The agreement shall provide for
30 simultaneous consideration by Metro and the county of designation of urban reserves and
31 rural reserves under OAR 660, division 28.

32
33 (2) A county and Metro may not enter into an intergovernmental agreement to designate
34 urban reserves in the county under this division unless the county and Metro also agree to
35 designate rural reserves in the county under OAR 660, division 28.

36
37 **(3) In considering an intergovernmental agreement described in this rule, Metro**
38 **and the applicable local government must follow a citizen involvement process**
39 **developed in consultation with the State Citizen Involvement Advisory Committee**
40 **that provides for broad public notice and opportunities for citizen participation**
41 **during all phases of the development of the agreement.**

42
43 (4) An agreement made under this rule is not a land use decision under ORS 197.015(11).
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³ Also defined by ORS 195.060 (2).

1 **660-027-0040**

2 **Designation of Urban Reserves**

3 (1) Urban reserves designated by Metro⁴ under this division must be planned to
4 accommodate population and employment growth for at least 20 years, and not more than
5 30 years, after the 20-year period for which Metro has demonstrated a buildable land
6 supply in the most recent inventory, determination and analysis performed under ORS
7 197.296⁵. Metro shall specify the particular number of years for which the urban reserves
8 are intended to provide a supply of land.

9
10 (2) If Metro designates urban reserves under this division prior to December 31, 2009, the
11 reserves shall be planned to accommodate population and employment growth for at least
12 20 years, and not more than 30 years, after 2029.

13
14 (3) Metro may not designate urban reserves under this division in a **particular** county
15 until the county and Metro have entered into an intergovernmental agreement under this
16 division that identifies the land to be designated as urban reserves.⁶

17
18 (4) Designation by Metro and a county in the metropolitan area of urban reserves under
19 this division shall be coordinated with the local governments and special districts that
20 may provide services to the urban reserves when they are added to the UGB.

21
22 (5) When designating urban reserves under this division, Metro and a county shall base
23 the designation upon consideration of factors including, but not limited to, whether land
24 proposed for designation as urban reserves, alone or in conjunction with land inside the
25 UGB:

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

28 (b) Include sufficient development capacity to support a healthy economy;

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

31 (d) Can be designed to be walkable⁷ and served by a well-connected system of streets⁸ by
32 appropriate service providers;

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

34 (f) Includes sufficient land suitable for a range of housing types.⁹

⁴ The reserves designated by each individual county will probably not accommodate this amount.

⁵ SB 1011 has an internal inconsistency: Section 10 cites ORS 197.299 here, which is possibly the correct statute citation rather than ORS 197.296.

⁶ Can Metro “designate” prior to the county amending its plan? If not, this section needs to so state.

⁷ Definition?

⁸ Definition?

⁹ 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:

- Should parks be specifically added to (5)(c)? The group agreed that parks are public facilities that should be part of urban reserve planning but did not feel that it was necessary to specifically call this out in the rule. However, we discussed the possibility of defining “public facilities and services.”

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2 (6) Metro and the county need not demonstrate that a proposed urban reserve satisfies
3 each factor in section (5) of this rule. Metro and the county must consider each factor,
4 and explain, by reference to the factors, why the chosen land was designated as urban
5 reserves. **Metro and the county must adopt findings and conclusions concerning the**
6 **results of the consideration of the factors.**

7
8 (7) If Metro designates urban reserves under this division it shall adopt policies to
9 implement the reserves and to guide the management of these areas, and must show the
10 reserves on its regional framework plan map. A county in which urban reserves are
11 designated under this division shall adopt policies **and land use regulations** to
12 implement the reserves **and to guide the management of these areas**, and must show
13 the reserves on its comprehensive plan **and zoning** map.

14
15 *(8) Something needs to be here to describe coordinated and concurrent process of*
16 *Metro combining the three county agreements in its final designation of the reserves so*
17 *that the final reserves combined include the entire 20-30 year supply.*

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19 **660-027-0050**

20 **Planning of Urban Reserves**

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22 (1) Urban reserves are the highest priority for inclusion in the urban growth boundary
23 when the boundary is expanded in accordance with Goal 14 **and ORS 197.298.**

24
25 (2) In order to maintain opportunities for orderly and efficient provision of urban services
26 when urban reserves are added to the UGB, counties within the Portland metropolitan
27 area shall not amend land use regulations for urban reserves designated under this
28 division to allow uses that were not allowed, or smaller lots or parcels than were allowed,
29 at the time of designation as urban reserves until the reserves are added to the UGB.¹⁰

• Should trails be specifically added to (5)(d)? After discussion, it was suggested that language referring to pedestrian and bicycle facilities that is consistent with the Transportation Planning rule be added. This issue merits further discussion.

• 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)? This issue merits further discussion.

• Should language in the existing urban reserve rule having to do with mitigating impacts on nearby farm and forest practices be added to this rule? The following language was considered but set aside for further discussion: “(g) Can be designed to mitigate adverse effects on farm and forest practices on nearby resource land or on land designated as rural reserves.”

• If a factor is included on mitigating impacts on farm and forest practices, should another factor be added on mitigating impacts on natural landscape features? This issue was also left unresolved.

¹⁰ With respect to this anti-backsliding language, 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

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660-027-0060

Adoption and Review of Urban Reserve Areas

(1) Designation or amendment of urban reserves under this division shall **include amendments to applicable local government comprehensive plans and regional framework plans, in accordance with the applicable provisions of ORS 197.610 through 197.650.**

(2) **After adoption or amendment of an urban reserve, Metro and applicable local governments shall submit the amendment or designation to the Land Conservation and Development Commission for approval in the manner provided for periodic review under ORS 197.628 to 197.650.**

statute would have no effect, so we did not include any such language. Another 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 when it is added to an unincorporated community. For now we agreed to leave this language out, but it merits further discussion. Two broader issues related to the planning of urban reserves will require discussion by the rulemaking work group. First, should the rules specifically authorize or otherwise address the adoption of conceptual plans for the urbanization of urban reserves? Second, should the rules include deadlines or other provisions having to do with the adoption of urban service agreements? While early drafts included language on these two issues, the group agreed to drop that language but to flag these issues for LCDC and the rulemaking work group.