



Oregon Department of
Land Conservation
and Development

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**Rules Advisory Committee for
Transfer of Development Rights under
Measure 49**

Summary of Final Proposed Revisions

Tuesday, December 30, 2014

Proposed Revisions to draft #3 of M49 TDC Rules

The following proposed revisions to draft #3 of M49 TDC rules (now reflected in draft #4) derive in part from previous RAC discussions and in part from DLCD staff and legal analysis. We submit them to you for your consideration. Please let us know by January 5, 2015 if you have any concerns with these proposed revisions.

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

1. Delete requirement that counties approve holders of conservation easement and entities for third party enforcement of restrictive covenants. Instead, the department will review conservation easements and counties and the department will be designated as having independent enforcement rights in restrictive covenants – 0020(2) and 0060(4) and (5)
2. Add new recreational, cultural, environmental and hazard attributes that can qualify for bonus credits, specify the applicable mapping and make corresponding changes to receiving area exclusions – 0040(3) and 0080(4)
3. Delete the allowance for open-ended credits assigned by counties – 0040(3)
4. Revise the bonus credits for large properties to begin at 80 acres and increase in 40-acre increments – 0040(4)
5. Add new uses that can be allowed under conservation easements and restrictive covenants – 0060(1)
6. Clarify requirements for conservation easements and restrictive covenants – 0060(4) and (5)
7. Clarify that Substantially-developed Subdivisions are only candidates for receiving areas if they are outside rural reserves. This is because rule requirements for changes to zoning for land in rural reserves only applies to existing exceptions areas, and Substantially-developed Subdivisions would be new exceptions areas – 0080(2)
8. Clarify that development on properties that are partly in and partly out of receiving areas must be sited in receiving areas – 0090(3)
9. Expand the entities that can create a TDC bank – 0110

Other revisions include

10. Add a definition for Substantially-developed Subdivision – 0010(6)
11. Require that sending properties have lawful access – 0030(1)(b)

- 12. Allow qualifying sending properties to be within an applicable overlay zone – 0040(2)(a)
- 13. Require counties to send preliminary approvals to department – 0050(2)(a)
- 14. Delete the provision for how TDCs may be acquired or used as it is self-evident – 0090

Prepared December 30, 2014 by DLCD Staff:

Katherine Daniels Farm & Forest Lands 503-934-0069 katherine.daniels@state.or.us	Sarah Marvin M49 Compensation Specialist 503-934-0001 sarah.marvin@state.or.us	Matt Crall Planning Services Division Manager 503-934-0046 matthew.crall@state.or.us
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