

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1246

Adopting Supplemental Findings Relating to Urban and Rural Reserve Designations.

The Multnomah County Board of Commissioners Finds:

- a. The Oregon Urban and Rural Reserves Program is intended to provide greater certainty to the agricultural, forest, commerce, and other industries as well as other private landowners and providers of public services regarding the location of future urban development. *See* ORS 195.130 (Legislative Findings).
- b. On May 13, 2010, the Board adopted Ordinance No. 1161 relating to urban and rural reserves.
- c. On June 17, 2010, the Board adopted Ordinance No. 1165 relating to urban and rural reserves and amending and updating Ordinance 1161, Exhibits 2 and 3.
- d. On October 29, 2010, the Oregon Land Conservation and Development Commission (LCDC) directed Metro and Washington County to amend certain reserve designations in that county.
- e. On April 28, 2011, the Board adopted Ordinance No. 1180 relating to urban and rural reserves and the action taken by Metro and Washington County in response to LCDC's 2010 direction.
- f. On August 14, 2012, LCDC issued its written order, Order 12-ACK-001819 (Order), acknowledging the urban and rural reserves designated in Washington, Multnomah, and Clackamas Counties.
- g. On February 20, 2014, the Oregon Court of Appeals reversed and remanded LCDC's Order. With one exception, the court denied all challenges to the designation of reserves in Multnomah County. As to Multnomah County Area 9D, the court held that the County failed to meaningfully explain why, in light of certain dissimilarities between the northern and southern portions of that area, the County's consideration of the rural reserve factors yields a rural reserve designation of all land in Area 9D. *Barkers Five, LLC et al. v LCDC*, 261 Or App 259, 345–347, 364, 323 P.3d 368 (2014). In addition, the court held that, on remand, a determination must be made regarding the effect of the foregoing error on the designations of reserves in Multnomah County in its entirety. *Barkers Five*, 261 Or App at 364.
 - i. Of note, with respect to Area 9D and “designations of reserves in Multnomah County in its entirety,” the court did not identify any issue of conflicting evidence, lack of substantial evidence, or any other evidentiary issue. Further, the existing evidentiary record is sufficient for purposes of responding to the

specific issues identified by the court. Accordingly, in order to respond to the specific issues identified by the court, there is no need to re-open the evidentiary record in this matter.

- h. On April 1, 2014, House Bill 4078 became effective. This bill, codified as Oregon Laws 2014, chapter 92, established and acknowledged an expansion of the Urban Growth Boundary in Washington County as well as Urban Reserves and Rural Reserves in Washington County.
- i. On March 16, 2015, the Oregon Land Conservation and Development Commissioner (LCDC) issued Remand Order 14-ACK-001867, which, in relevant part, remanded Rural Reserve Area 9D to Multnomah County and Metro for further action consistent with the principles expressed in *Barkers Five*.
- j. On April 13, 2017, Metro adopted Ordinance No. 17-1397 relating to urban and rural reserves.
- k. On May 11, 2017, Clackamas County is considering adoption of Ordinance No. 06-2017 relating to urban and rural reserves.
- l. Notwithstanding the limited scope of specific issues remanded to Multnomah County by the Oregon Court of Appeals and LCDC, the Board remains open to considering all arguments in support of or opposition to this ordinance, including any part thereof and any designation therein.
- m. Multnomah County, its partners, and its constituents have dedicated substantial time and resources to implementation of the Oregon Urban and Rural Reserves Program in Multnomah County and the Metro Region and it is in the best interests of the public to now resolve the outstanding issues.

Multnomah County Ordains as follows:

Section 1. The following ordinances previously adopted by the Board are hereby re-affirmed, continued, and, to the extent necessary to maintain uninterrupted continuity in the effectiveness of such ordinances and for any other reason, re-adopted:

- (A) Multnomah County in Ordinance 1161;
- (B) Multnomah County in Ordinance 1165; and
- (C) Multnomah County in Ordinance 1180.

Section 2. The maps depicting urban and rural reserves in Multnomah County adopted through the ordinances identified in Section 1 of this Ordinance are reformatted, without substantive alteration, as set forth in Exhibit 1 of this Ordinance such that Exhibit 1 shall now serve as Multnomah County's authoritative map of urban and rural reserves in Multnomah County, provided that in the event of any conflict between Exhibit 1 of this Ordinance, or portion

thereof, and any map, or portion thereof, adopted through the ordinances identified in Section 1 of this Ordinance, the latter shall control.

Section 3. The supplemental findings of fact, statements of reasons and conclusions, and conclusions of law set forth in Exhibit 2 of this Ordinance are adopted as part of the County's findings, reasons, explanations, and conclusions in this matter of Urban and Rural Reserve Designations.

Section 4. The findings of fact, statements of reasons and conclusions, and conclusions of law set forth in Metro Ordinance No. 17-1397 are adopted.

Section 5. The findings of fact, statements of reasons and conclusions, and conclusions of law set forth in Clackamas County Ordinance No. 06-2017 are adopted.

Section 6. Metro is authorized to compile, as necessary, all adopted findings of fact, statements of reasons and conclusions, and conclusions of law relating to this matter of Urban and Rural Reserve Designations and file the same with the Oregon Land Conservation and Development Commission on Multnomah County's behalf.

FIRST READING:

SECOND READING AND ADOPTION:

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:

JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Jed Tomkins, Assistant County Attorney

SUBMITTED BY: Kim Peoples, Director, Department of Community Services