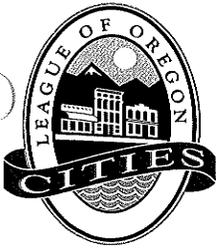


August 9, 2007



John VanLandingham, Chairman
Members of the Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301

RE: Proposed 2007-09 Policy and Rulemaking Agenda

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Mike McCauley
Executive Director

Thank you for the opportunity to comment on the July 25, 2007 staff memo. Below I've listed the categories suggested by staff for review below, with subsequent comment on several of the items (*). As I review this list, I am reminded of the importance and reason for the work initiated by the "Big Look Task Force" on Oregon Land Use Planning.

A. Conforming Goals and Rules to New Legislation

1. Metro Urban and Rural Reserves
2. Goal 3 Agricultural Lands Rule Amendments
3. Goal 4 Forest Lands Rule Amendments
4. Goal 8 Regarding Destination Resorts
5. UGB Population Forecast Rules
6. Sites for Affordable Housing and Manufactured Housing Parks*
7. Environmental Justice

B. Ongoing Projects Underway from LCDC's 2005-07 Policy Agenda

1. Urban Growth Boundary Amendment Process Rulemaking*
2. Transportation Planning Rule
3. Aggregate Mining Policy

C. New Policy or Rulemaking Ideas for the Near-Term

1. Metro Sub-regional Analysis Rules
2. Post-acknowledgement Plan Amendment Rules
3. Goal 11 Rural Sewer and Water Exceptions Rules
4. Acknowledgement of New Cities*
5. Ocean Resources (Goal 19)
6. Citizen Involvement Rulemaking*

D. Policy or Rulemaking Ideas for the Long Term

1. Many Rules Take Effect Only During Periodic Review*
2. Non-Resource Land
3. Urban Reserve Process Reform
4. Measure 37- Conflicts with LCDC Goals or Rules
5. Regional Problem Solving
6. Review of ORS Chapter 215 and Rural Lands
7. Goal 5 Natural Resources Rules*
8. Goal 6 Regarding Water Quality
9. Goal 8 Destination Resorts
10. Goal 9 Economic Development Rulemaking Phase II*
11. Goal 10 Housing
12. Dune Grading (Goal 18)

A. 6 Sites for Affordable Housing and Manufactured Housing Parks

Cities are very concerned with the provision of affordable housing in their communities, and the League would like to directly participate in any work groups that are appointed to review the issue and develop options or proposals for consideration by the 2009 legislature.

Upon review of the provision in HB 2096¹, the League does not believe that the legislation suggested or implied the adoption of rules or measures by LCDRC, but a report back to the Seventy-fifth Legislative Assembly containing an inventory of available sites and the development of statutory options or proposals for legislative consideration.

B. 1 Urban Growth Boundary Amendment Process Rulemaking

Many of the suggestions made in the staff report are good ones with regard to the continuance of the UGB rulemaking, but these issues have been historically controversial and would take time to come to fruition. If this rulemaking continues into a second phase, the League requests direct appointment to the work group.

C. 4 Acknowledgement of New Cities

With the trend of many citizens preferring self-representation that incorporation (rather than annexation), and the continued growth in many areas of our state, it is likely that there will be new cities in the future that would benefit from a "housekeeping" review of OAR 660, Division 3.

C. 6 Citizen Involvement Rulemaking

The League cannot support the suggestions of the Commission's Citizen Involvement Advisory Committee (CIAC) for this rulemaking for the following reasons:

Many of the suggestions need statutory changes and cannot be implemented in rulemaking, such as: changes to open records law; changes in notice provisions; changes in the appeal fees provisions.

This rulemaking would likely have substantial cost to local governments, and would fall under the unfunded mandate provision of the Oregon Constitution.

D. 1 Many Rules Take Effect Only During Periodic Review

The League would not advise to take up this suggested rulemaking, for two reasons:

SB 920 did narrow the scope of city participation in periodic review, but not substantially as indicated by the staff report. The bill reduced the number of cities required to engage in periodic

¹ HB 2096, Section 9a:

The Department of Land Conservation and Development shall report to the Seventy-fifth Legislative Assembly in the manner described in ORS 192.245 regarding:

- (1) The provision of sites for affordable housing development, including sites for manufactured dwelling parks or mobile home parks, as those terms are defined in ORS 446.003; and
- (2) Proposals to streamline land use requirements relating to expansion of urban growth boundaries to provide affordable housing, manufactured dwelling parks and mobile home parks.

review from 73 to 55 (by 25%). It provided a more targeted approach, such as adding small cities inside of MPO's that had never been subject to periodic review, and gave LCDC a mechanism to bring any city into periodic review, if deemed necessary. Although some local governments may not be required to address certain planning requirements under the current system, current rule and statute allow the commission to bring them into periodic review if those requirements are deemed important enough to do so. Or the local government can do so voluntarily, now allowed by statute, if they deem it beneficial or necessary. Because these options now exist and allow compliance in communities where it is critically important, the League does not believe there is a substantial reason to initiate this rulemaking.

This rulemaking would likely have substantial cost to local governments, and would fall under the unfunded mandate provision of the Oregon Constitution.

D. 2 Non-Resource Land

This item has substantial merit, and if commenced, may improve property rights concerns and improve development patterns in the state.

D. 10 Goal 9 Economic Development Rulemaking Phase II

Since there were no new funds appropriated by DLCD's budget to implement the newly adopted Goal 9 Economic Development rules, the League would advise not engaging in additional rulemaking that would likely have a cost to local governments- until the new rules have had full implementation and their effect evaluated. Further complicating additional rulemaking in this category was a lack of appropriation for local government infrastructure funding by the 74th Legislative Assembly (2007 session), further complicating compliance with the new Goal 9 rule and likely with additional rules that would be considered.

Sincerely,



Linda C. Ludwig, Deputy Legislative Director
League of Oregon Cities