



# Oregon

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October 20, 2022

TO: County and City Planning Directors

FROM: Meg Reed, Coastal Policy Specialist  
Lisa Phipps, Coastal Program Manager

RE: Adopted New Goal Exception Criteria to Administrative Rules for the Goal 2 Exception Process, OAR 660-004-0022, for Shoreline Protection of Public, Ocean Fronting Roads



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Enclosed are the amendments to the Goal 2 administrative rules (OAR 660-004-0022) adopted by the Land Conservation and Development Commission (LCDC) at its September 22-23, 2022 meeting. The amended rules were filed with the Oregon Secretary of State and became effective on October 21, 2022. The summary below is provided for your information.

## **BACKGROUND**

The new rule addition creates a clear path for public roads and highways along the oceanfront to seek a local land use goal exception to use structural shoreline armoring to mitigate coastal erosion. It offers defined guidance on justifying a goal exception that balances public needs with the important values and ecosystem services of the public beach. The new goal exception process requires a feasibility assessment, public benefit justification, and mitigation of shoreline armoring impacts.

Structural shoreline protection, or shoreline armoring, is the placement of structural material on the coastline with the intention of minimizing the risk of coastal erosion to development. On the Oregon coast, this mostly takes the form of riprap revetments or seawalls. Currently, under Statewide Planning Goal 18, only certain types of development that existed as of January 1, 1977 are eligible to apply for shoreline armoring permits. 'Development' is defined as houses, commercial and industrial buildings, and vacant but improved subdivision lots. Under the current goal language, roads (such as Highway 101) are not eligible for shoreline armoring, even those that were developed prior to 1977. Some sections of State Highway 101 and other city and county roads are oceanfront and vulnerable to the hazards of coastal erosion. While there may be options for roads to be removed or re-routed in some areas, in other areas this option may be extremely costly; may impact sensitive habitats; and/or may be infeasible because of the mountainous and landslide-prone coastal terrain. In some cases, use of shoreline armoring for public road protection may provide the greatest public benefit. The new rule addition provides a direct option for these such roads through a local government goal exception process.

**OAR 660-004-0022 – SUMMARY OF RULE ADDITION**

The new rule is an addition to OAR 660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c). This new specific reason exception applies only to public, ocean-fronting roads that were developed as of January 1, 1977, to retain the intention of Statewide Planning Goal 18. Below are the key highlights and justifications for the proposed rule language, developed through a public process:

<i>Topic</i>	<i>Reasoning</i>
<b>A definition is given for public roads and highways, as well as what types of roads are eligible for this exception, and which are not. Only public bodies that own, operate, or maintain the public roadway may apply for this exception.</b>	This is seeking to prevent private property that is not eligible for shoreline armoring under Goal 18 from using this exception. This also helps to justify the public benefit.
<b>Justification that shoreline armoring will provide a significant public benefit.</b>	If the exception is going to allow more shoreline armoring on the Oregon coast, which will have long term impacts on beaches, there needs to be a clear reason to justify this addition, such as protecting an essential lifeline transportation route.
<b>Feasibility Assessment – evaluation of alternatives to shoreline armoring that do not require a goal exception and why they will not work. Rule language gives several alternatives to evaluate at a minimum.</b>	Requires the applicant to evaluate other potential options besides hard armoring, such as relocating the road, or vegetative plantings to mitigate the erosion. This assessment should answer the question, “Is a goal exception for shoreline armoring the only option in this instance?”
<b>Demonstration of how the proposed addition of shoreline armoring for road protection will minimize its impacts on the public beach and adjacent properties.</b>	If shoreline armoring is the only option, this analysis asks the applicant to show how the negative impacts of that armoring will be minimized, especially to public access of the beach and to adjacent property, and how the design of the structure accounts for the impacts of sea level rise.
<b>Avoid or mitigate the long-term and recurring costs to the public of the addition of shoreline armoring.</b>	This language is borrowed and modified from the wetland mitigation program within the Department of State Lands. The intent of this provision is to protect beach habitat and beach access from the impacts of additional armoring. The applicant is required to look at how the proposed project can, in this order: avoid, minimize, rectify, reduce, or compensate for the impacts of the additional shoreline armoring.
<b>Assessment of how the exception requirements of OAR 660-004-0020 are met.</b>	This serves as a reminder that the applicant also must follow the other exception criteria laid out in OAR 660-004-0020, which includes the four standards for a goal exception described in Goal 2.

### **PUBLIC NOTICE AND OUTREACH**

Staff at the Oregon Department of Land Conservation and Development received guidance on the development of new rules through a volunteer rulemaking advisory committee (RAC), recruited through an open process. Advisory committee members met a total of four times to draft rule language. Each meeting was livestreamed on YouTube and recordings were made available on the rulemaking webpage after each meeting. A summary of topics discussed and links for more information about each meeting can be found on the DLCD rulemaking webpage: <https://www.oregon.gov/lcd/LAR/Pages/OFPRP.aspx>. Written public comments were received throughout the rulemaking process. A public hearing was held on the proposed rules in Newport on August 23, 2022. LCDLDC held a public hearing at its September 22-23, 2022 meeting and then adopted the final rule language. All written comments were submitted to the commission prior to their deliberation.

For further information about this rule adoption, please contact Meg Reed, Coastal Policy Specialist at 541-514-0091 or [meg.reed@dlcd.oregon.gov](mailto:meg.reed@dlcd.oregon.gov).