

# LAND CONSERVATION AND DEVELOPMENT COMMISSION PUBLIC PARTICIPATION GUIDELINES FOR POLICY DEVELOPMENT

Approved by LCDC on January 25, 2019

## I. Purpose

The purpose of these guidelines is to provide and promote clear guidance for public participation in the development policy on land use. The Land Conservation and Development Commission values the participation of the public and interested parties in all phases of planning, including policy development. The Public Participation Guidelines are intended to provide the Commission and the Department with practical guidance on public participation in policy development, consistent with and in some cases beyond the legal requirements of the Attorney General's Model Rules of Procedure, state law, and the Commission's administrative rules.

The Commission and the Department shall follow these guidelines to the extent practicable in the development of new or amended statewide planning goals and related administrative rules, and in other significant policy development activities related to the statewide land use program.

## II. Public Participation Objectives in Development of Commission Policy

- To intentionally engage a diverse group of interests and people to ensure that the Department and Commission have the opportunity to gather input from those likely to be affected by the outcome.
- To provide meaningful, timely, and easily accessible information to the public and interested parties about policy development processes and activities of the Commission and the Department.
- To help people make a connection between the work of the department and meaningful, on-the-ground outcomes by providing information in plain language, taking care to make communications on all topics as clear and understandable as possible.
- To promote effective communication and working relationships among the Commission, the Department, the public and interested parties in statewide planning issues.
- To facilitate submittal of testimony and comments to the Commission from the public and interested parties and the response from the Commission to the public and interested parties about issues of concern with regard to policy proposals.

## III. Public Participation and Outreach Methods

### A. Public Participation Guidelines

In order to guide the Commission and the Department in planning for and conducting procedures and activities that will result in a significant new or amended statewide land use policy, such as a new or amended statewide planning goal or an administrative rule, the Commission and the Department shall adhere to the following guidelines to the extent practicable:

1. Consult with the Citizen Involvement Advisory Committee (CIAC) on the scope of the proposed process or procedure to be followed in the development of any new or amended goal, rule, or policy;

2. Consult with the CIAC on development of the biennial policy agenda;
  3. Consult with the CIAC on the membership of a rulemaking advisory committee (RAC), including a position for a CIAC member if deemed appropriate;
  4. Prepare a schedule of policy development activities that clearly indicates opportunities for public participation and comment, including tentative dates of meetings, public hearings, and other time-related information;
  5. Post the schedule, and any subsequent meeting or notice announcements of public participation opportunities on the Department's website, and provide copies via paper mail upon request;
  6. Send notice of the website posting using current, appropriate outreach tools (e.g. list servs, email, subscription groups) to interested or potentially affected parties, and via paper mail upon request; and
  7. Provide background information on the policy issues under discussion via posting on the Department's website and, upon request, via paper mail.
  8. Maintain a contact list of names of the public interested in participating in land use policy development on general or on specific issues. In addition, information should be provided on the Department's website to notify the public of opportunities to serve on advisory committees or workgroups.
- B. In establishing committees, workgroups, and processes for the development of new or amended goals, rules, or policies, the Commission and the Department shall consider the complexity of the issues, diversity of interests among interested parties, equity concerns, availability of expertise, potential effects of resolution of the issue on local communities, tribes, the public, and interested parties, and the degree of expressed public interest. Depending on these considerations with respect to a particular policy issue, the Commission may:
1. Appoint an advisory committee that includes the public, local officials, tribal representatives, experts, and other affected or interested parties in order to provide advice and assistance to the Commission on a particular policy issue, prepare options or alternatives, and perform other tasks as appropriate. Information about meetings and actions of the advisory committee shall be made available on the Department's website and through other current, appropriate outreach tools (e.g. list servs, email, subscription groups) and paper copies should be made available upon request.
  2. Authorize the Department to establish an advisory committee that includes affected parties, technical experts and other knowledgeable individuals in order to provide advice and assistance to the Director and the Department on a particular policy issue, prepare options or alternatives, and provide advice and information on the political, practical,

- technical, and scientific aspects of a potential new or amended policy. Such advisory committees to the Department are referred to as “workgroups” and their meetings shall be open to the public. While these meetings are not necessarily subject to the requirements of the Open Meetings Law, the Department shall strive to comply with the provisions of that law with respect to notice and other requirements. The Department shall report to the Commission when it appoints a workgroup in order to provide an opportunity for the Commission to consider and, if necessary, amend the group;
3. Choose to not establish an advisory committee or workgroup, provided LCDC and the Department shall explain its reasons for not doing so, either in the public notice advertising the start of a goal, rule, or other policy making project or by other means.
- C. The Commission or the Department, when establishing an advisory committee, or workgroup, shall:
1. Clearly define the task or role of the committee or group;
  2. Assure that Department staff provides adequate support, within the limitations noted below;
  3. Require notes or minutes of committee meetings to be prepared and drafts of proposed goals or rules be distributed prior to subsequent committee or workgroup meetings, when timelines permit, and within the limitations noted below;
  4. Assure the participation of local government staff or elected officials and affected tribes, where warranted, with notice to local elected officials that employ local staff appointed to a committee or workgroup;
  5. Consider geographic representation in appointing committees or workgroups;
  6. Consider equitable and diverse representation in appointing committees or workgroups; and
  7. Provide information to members of advisory committees and workgroups, and an opportunity for discussion, to ensure that there is a common understanding about (a) how recommendations will be developed; (b) opportunities to present minority opinions and individual opinions; (c) the time commitment necessary to attend workgroup meetings and related activities and to read background materials; (d) opportunities to discuss background and technical information with department staff; and (e) any potential liability or exposure to litigation as a result of serving on a committee or workgroup.
- D. The Commission shall encourage flexibility and innovative methods of engaging the public in its policy activities and shall seek the assistance and advice of the public affected by or with an interest in the proposed policy issue. To this end the Commission or Department may convene short -term technical panels or focus groups (real or virtual), hold conferences, conduct on-line surveys, and carry out other means of gathering information. Where a goal, rule or significant policy process primarily affects a certain region, and where advisory committee or workgroup meetings are confined to that region, notice and opportunities to comment shall also be made available to the public and interested parties in other regions of

the state. Where appropriate, the Commission shall consider collaborative rulemaking under ORS 183.502.

- E. The Commission is cognizant that the level of public participation and outreach described in these guidelines will be difficult or impossible without adequate staff support from the Department, and that the scope of efforts to promote and facilitate public participation and outreach will be limited based on the adequacy of staff and funding resources.
- F. None of the activities described herein are intended to conflict with or replace any of the public notice or comment opportunities provided under state law or administrative rules.
- G. The Commission may waive or modify these guidelines, as necessary and reasonable, including emergency circumstances or when a rulemaking issue is not significant. When the commission chooses to waive or modify these guidelines, it shall explain its reasons for doing so.

#### **IV. External Communication**

##### **A. Understandable Information**

The Commission and the Department shall provide to the public information that is necessary to understanding the policy issues at hand and shall endeavor to make this information easily understood and readily accessible. The Commission and the Department shall identify Department staff or other experts to answer questions and provide information to the interested public.

##### **B. Notice of Decisions**

The Commission and the Department shall provide notice of decisions to members of the public who have requested information and/or participated in the development of policy. This notice shall be by e-mail (or other current, appropriate outreach tool) except paper mail when specifically requested. Notice shall direct the public to the Department's website where the decision, background information, staff reports, rationale for the decision, and other information will be available for a reasonable length of time.

Information on appeals procedures shall be available on the Department's website and shall be referenced, when appropriate, in notices to the public, above. Information on how to perform a public records request to access information that has been removed from the Department's website shall also be available.

##### **C. Costs**

Paper copies of items may be mailed upon request subject to fees established by the Department to recover costs (the Commission has established copy fees under OAR 660-040-0005).

##### **D. Electronic Communication**

While the Commission and the Department recognize that not all members of the public presently have or desire direct home access to electronic communications or the agency website on the Internet, the Commission also recognizes the numerous advantages of

electronic communication. The Commission is committed to using this medium as a primary means of communication and distribution of information of interest to the public and shall encourage the Department to employ web-based communication technologies to provide a broad range of information to the public and to facilitate communication between the Commission and the public.

**V. Applicability**

These guidelines are effective January 25, 2019, and supersede the previously adopted Citizen Involvement Program adopted April 26, 2004 and October 7, 1977 and Public Involvement Policy adopted May 4, 2001. The Department is directed to consult with CIAC with regard to new and ongoing projects, including advisory committees and workgroups appointed for those projects, at the earliest scheduled CIAC meetings. However, in the event the meeting schedule of those committees will not allow timely consultation on policy projects intended to begin in accordance with the schedule adopted by LCDC, the Department is directed to proceed with those projects and to consult with CIAC at the earliest opportunity.