



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

May 12, 2022

TO: Land Conservation and Development Commission

FROM: Brenda Bateman, Director
Matt Crall, Planning Services Division Manager
Bill Holmstrom, Land Use and Transportation Planning Coordinator
Kevin Young, Senior Urban Planner
Cody Meyer, Land Use and Transportation Planner
Evan Manvel, Climate Mitigation Planner



SUBJECT: **Agenda Item 3, May 19-20, 2022, LCDC Meeting**

CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES: RULE AND ISSUE CLARIFICATIONS

I. AGENDA ITEM SUMMARY

Purpose. Department of Land Conservation and Development (DLCD or department) staff will provide the Land Conservation and Development Commission (LCDC or commission) with a summary of staff responses to concerns that have been raised about the proposed rules and issues related to the Climate-Friendly and Equitable Communities rulemaking.

Objective. To provide the commission with the department's response to concerns that have been raised about the proposed rules.

II. BACKGROUND

Background. The department and commission have heard concerns raised in response to the [Climate-Friendly and Equitable Communities rulemaking](#). Following is a summary of some of the common concerns raised and staff's responses to those concerns.

III. CONCERNS AND RESPONSES

Concern: Adoption of these rules will increase housing costs.

Based on case studies and economic data, DLCD considers this outcome unlikely.

Oregon is in a housing crisis, and there is a shortage of housing people can afford. A core element of these rules is to allow for additional zoned housing capacity in "climate-

friendly areas.” These are small, strategically designated areas where compact, mixed-use, walkable development will be allowed. The rules will reduce local zoning restrictions on housing, allowing for a broader range of housing options to potential tenants and buyers.

Concern: Adoption of these rules will result in the elimination of single-family homes.

Based on a review of the proposed rules, DLCD finds no basis for this concern.

DLCD’s rules do not propose elimination of single-family homes; they increase options for what types of housing local builders may construct.

In climate friendly areas, existing zoning and development standards will be updated with zoning and development standards that allow for a greater variety of housing types and other development. Other types of housing such as multi-use development, multi-family residential, and middle housing may be built instead of single-family housing but the rules in no way eliminate single family housing as an allowable use in climate friendly areas.

Concern: Adoption of these rules will result in gentrification and displacement.

DLCD has proactively recognized and sought to address this concern.

The Climate Friendly and Equitable Communities rules require local governments to identify areas that may be vulnerable to gentrification-caused displacement of current residents, and to adopt strategies to counter that displacement concurrently with zoning changes. One tool provided for local governments is an [anti-displacement toolkit](#). Local governments are currently not required to consider displacement or gentrification that may result from zoning changes, so these rules are a step forward on preventing displacement.

Additionally, the department is working with other state agencies to provide incentives for low-income housing developments in climate friendly areas.

Concern: If adopted, these rules will reduce visitor parking in key economic centers.

Based on evidence compiled in this rulemaking and a review of the proposed rules, DLCD considers this outcome possible, but a shortage of parking unlikely.

The rules do not require the removal of existing parking. The rules allow parking to be determined by the marketplace rather than local governments, thus avoiding the underused parking typically created by local parking mandates. Businesses and builders are allowed to build the parking customers and clients demand. Cities or visitor

associations may build parking to whatever level demanded by the marketplace as well. Evidence from cities without government parking mandates demonstrates parking is provided by the market, particularly when on-street parking is properly managed.

CONCERN: If adopted, these rules will limit the types of businesses available in communities.

Based on the clear language of the proposed rules, DLCD finds no basis for this concern.

Nothing in the rules limits the type or location of any business.

CONCERN: If adopted, these rules will further narrow streets and roadways.

Based on the clear language of the proposed rules, DLCD finds no basis for this concern.

The rules do require certain cities and counties to consider how existing rights-of-way are used. Specifically, standards set forth in 660-012-0810 allow for the possibility of redesignating portions of the existing right-of-way to purposes other than a vehicular travel lane. However, the rule does not include any mechanism to reduce the width of public rights-of-way in existing areas.

For future planning, the rule includes a stipulation that local governments not plan for street widths greater than necessary, considering the function, land use context, and expected users of the street.

CONCERN: The state should not mandate what cities build.

DLCD believes this concern is based on a policy preference for local control, and the belief that some non-local requirements, even for reasons as compelling as the climate and housing crises, are not legitimate. We respectfully disagree, and we would note that Executive Order 20-04 clearly directs LCDC to use their authority to act.

The Climate Friendly and Equitable Community rules reduce regulatory barriers to development that exist in our local plans and codes, allowing property owners and local builders more choices and offering residents additional housing options and less dependency on vehicles for work, play, and shopping.

CONCERN: The Oregon Legislature is not aware of the proposed rules.

Based on the record, DLCD finds no basis for this concern.

During the 2021 Session, the Oregon Legislature provided specific funding for the staffing and implementation of the Climate Friendly and Equitable Communities rules. In

addition, staff have discussed the proposed rules with many legislators throughout the process. Finally, as required by state law, DLCD has informed the legislature through a formal rules notice.

CONCERN: Oregon communities and the public have not been involved in this work.

Based on the record of the rulemaking process, DLCD finds no basis for this concern.

Extensive community engagement has shaped this process throughout. DLCD has held or participated in more than 168 public meetings, in addition to consultation with and additional support for community-based and community-serving organizations that have traditionally been left out of policy development conversations. A [list of engagement activities](#) is available on the rulemaking website, along with a [list of rulemaking advisory committee members](#).

DLCD worked hard to ensure equitable representation from affected communities on our diverse, 40-person rulemaking advisory committee. Local governments from all eight impacted regions served on the rulemaking advisory committee, along with representatives of the League of Oregon Cities and Associated Oregon Counties. DLCD's regional representatives have shared information about the rulemaking with our local government partners, as has the League of Oregon Cities. DLCD and the commission are continuing to accept comments on the rules, and DLCD is actively partnering with affected local governments on support for next steps, should the rules pass.

CONCERN: Communities have not had time to respond to the proposed rules.

DLCD recognizes this reasonable concern, especially as the pandemic has weighed heavily on local elected officials, planning staff, and the public for the past two years.

LCDC deliberately extended the rulemaking process over those two years, and the agency has worked hard to ensure communities have been involved at every step of this process.

Though the rules are extensive and somewhat complex, they have been shaped, developed, and revised through an extensive engagement process with local governments, community partners, and a rulemaking advisory committee that included representatives from the real estate industry, homebuilding industry, equity partners, local governments, freight industry, and others. [Plain-language summaries](#) of the rules have been provided at every step and are available on the [rulemaking website](#).

DLCD has hosted multiple opportunities for engagement beyond RAC participation, including 'office hours', regional practitioner meetings, community listening sessions,

technical work groups, and more than 168 presentations to local governments and community groups.

CONCERN: Communities are not funded to implement the rules.

DLCD recognizes the reasonable concern that local governments must have sufficient state funding to adopt and implement the CFEC rules.

In addition to the existing funding already provided to local governments by DLCD and ODOT, the agencies have secured more than \$19 million to assist with implementing the rules. The agencies already have numerous existing funding streams that support local planning and are working to secure any additional resources that will be needed by local governments over the coming years as the rules are implemented.

CONCERN: Cities will be prevented from expanding their Urban Growth Boundaries unless targets for reduced driving are met.

Based on a review of the proposed rules, DLCD finds no basis for this concern.

If an urban growth boundary (UGB) expansion would be otherwise permitted, it will be permitted regardless of a city's success in reducing vehicles miles travelled (VMT). DLCD rules require cities to have a 20-year supply of land within the urban growth boundary (UGB). These rules do not change this requirement.

CONCERN: DLCD has not studied potential outcomes of these rules.

DLCD believes the proposed rules are supported by empirical evidence and research.

The proposed rules have a strong foundation in established best practices. The potential impacts of the proposed rules on businesses, housing, local governments, and state agencies have been studied by an independent outside firm. We encourage people to read the [impact statements in their entirety](#).

CONCERN: The proposed rules do not go far enough to truly address the urgency of climate change.

Based on the expected outcomes of the proposed rules, if adopted, DLCD finds a reasonable basis for this concern.

The proposed rules affect the metropolitan areas of our state, which are home to over 63% of the state's population. While the rules will make a significant difference in reducing climate pollution from transportation and land use decisions, additional actions are required to meet the state's greenhouse gas reduction goals.

IV. RECOMMENDED ACTION

None.