



October 9, 2025

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director
Lisa Phipps, Manager, Ocean and Coastal Services Division
Meg Reed, Coastal Policy Specialist



Subject: **Agenda Item 3, October 23-24, 2025, LCDC Meeting**

Rulemaking Initiation - Coastal Public Access

I. Agenda Item Summary

Department of Land Conservation and Development (DLCD or the department) is asking the Land Conservation and Development Commission (LCDC or commission) to initiate a rulemaking process to develop new rules under Goal 17: Coastal Shorelands related to public access to coastal shorelines. The protection of public access to coastal shorelines is required within Statewide Land Use Planning Goal 17: Coastal Shorelands. Goal 17 currently has no implementing rules for this topic area. If initiated, the rulemaking will provide clarity for local governments on coastal public access and associated requirements. The commission received information about this rulemaking during its September 2025 meeting as a part of the department's 2025-2027 Policy Agenda. As a next step, department staff request that the commission approve a rulemaking charge and the list of proposed interests to be represented on the Rules Advisory Committee or RAC.

a. Purpose

DLCD staff request that the commission initiate rulemaking to create rules related to maintaining and improving public access to Oregon's coastal shorelines. The purpose of the rules is to clarify local government requirements under Statewide Planning Goal 17.

b. Objective

The commission considers the charge, reviews and comments on the list of interests to be represented on the RAC, and initiates rulemaking.

For further information about this report, please contact Meg Reed, Coastal Policy Specialist at 541-514-0091 or meg.reed@dlcd.oregon.gov.

II. Background

The state of Oregon has an extensive shoreline bordering the ocean, estuaries, and coastal lakes. Oregon communities near and far from the coast benefit in many ways from the

availability of public access to nature and waters, including intrinsic benefits, economic benefits, improved health outcomes, and an increased stewardship ethic for the coast. Public access to coastal shorelines is an important economic driver for local communities and should be carefully managed to balance recreation and tourism needs with the protection of coastal habitats.

a. Overarching Policy Framework

Oregonians value public access to the shore. Accordingly, the state has established the legal means and improvements necessary for the public to enjoy beaches and coastal waters. In 1913, Governor Oswald West and the Oregon legislature established the state's 362 miles of shoreline as a public highway. This designation only applied to the wet-sand portions of the beaches (Oregon Revised Statutes 390.605-770). Later, in response to private encroachments on the dry sand beaches, the State Highway Commission, with Governor Tom McCall's support, introduced two bills in the legislature. The bills recognized the public's continued use of private beach land as a permanent right. These bills came to be known as the Beach Bill, passed by Oregon's legislature in 1967. These bills declare that all "wet sand" belongs to the state of Oregon. It also established a permanent public easement for access and recreation along the ocean shore, including the dry sands up to the statutory vegetation line or to the line of established upland shore vegetation, whichever is further inland, regardless of ownership. Because of these laws, the public has "free and uninterrupted use of the beaches." Property owners are required to seek state permits to construct any alteration of the ocean shore and for uses of the beach other than recreation. Required permits include alterations needed for the development and improvement of beach access. These permits are administered by the Oregon Parks and Recreation Department (OPRD).

Oregon's Statewide Land Use Planning Program is the second instrumental policy framework that protects coastal public access to beaches and coastal waters. Coastal public access themes are addressed in several of Oregon's Statewide Land Use Planning Goals and associated rules, including Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces, Goal 8: Recreational Needs, Goal 16: Estuarine Resources, Goal 17: Coastal Shorelands, and Goal 18: Beaches and Dunes. However, key policies addressing protection of coastal public access are embedded primarily in Goal 17 as described in the next section.

Unlike on the outer coast of Oregon where public recreation on beaches is protected, the public's right to access shorelines within tidally influenced bays, estuaries, rivers, and coastal lakes is more limited. The Department of State Lands (DSL) oversees public use in these areas. The public has the right to use the beds and banks of Oregon-owned waterways for legal activities, including boating, swimming, sightseeing, and walking. However, public users do not have the right to go on land above the banks (ordinary high-water line), except in emergency situations, unless they have permission from the property owner. Along these shorelines, local governments are still required to protect and maintain public access points through the requirements of Goal 17.

These legal frameworks and planning goals have been instrumental in shaping the state's approach to managing its scenic and ecologically valuable coastline.

b. Goal 17: Coastal Shorelands

Statewide Planning Goal 17: Coastal Shorelands outlines planning and management requirements for the lands bordering estuaries, coastal lakes, and the ocean shore. Provisions in Goal 17 focus on the protection and management of resources unique to shoreland areas, such as fish and wildlife habitat, water dependent lands, and potential estuary restoration or mitigation sites. The goal also contains a provision requiring the protection and improvement of public access to and along coastal waters by local governments.

Goal 17 provides that “Local government in coordination with the Parks and Recreation Division shall develop and implement a program to provide increased public access. Existing public ownerships, rights of way, and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.” While the language is directive in the goal, Oregon Administrative Rules do not currently include implementation guidance for local governments on how to achieve the requirements. Meanwhile, conflicts from property transfers, development, and changing environmental conditions are putting increased demands on limited public coastal access points.

c. Coastal Access Advisory Team (CAAT)

From 2022 to 2024, Oregon Coastal Management Program (OCMP) staff at DLCD completed a National Oceanic and Atmospheric Administration-funded Project of Special Merit. This project focused on engaging partners in coastal shoreline public access topics and developing products to aid the agency and local governments with practical tools for developing, maintaining, and enhancing public access programs along Oregon’s coast. As part of that project, OCMP staff convened a Coastal Access Advisory Team (CAAT) to engage tribes, state agencies, and community organizations on the development of these tools. CAAT members discussed and contributed to the project, including how to help strengthen the Goal 17 public access provision, and to ascertain whether some ideas were ripe for rulemaking, guidance, grants, or other assistance to local governments. To help implement these recommendations, department staff recommend that the commission initiate rulemaking to advance some of the ideas and recommendations. These include defining terms related to public access; requiring certain minimum information to be included in programs to provide increased public access; increasing coordination with relevant agencies (e.g., Oregon Parks and Recreation Department) and with tribes; enhancing the protection of natural and cultural resources; considering impacts from coastal hazards; and providing more clarity on rights of way and public easements that provide public access. Such a rulemaking will help clarify public access requirements for coastal local governments.

III. Rulemaking Advisory Committee

Staff recommend a list of interests to be represented on a Rules Advisory Committee including those likely to be impacted by a new coastal public access rule and community members who will have a strong understanding and knowledge of accessing or providing access to coastal shorelines. The list of potential interests and groups below includes recommendations made by

the Community Involvement Advisory Committee at its September 5, 2025 meeting and the Local Officials Advisory Committee at its October 13, 2025 meeting.

Recommended interests to be represented on the Rules Advisory Committee (RAC):

- City and county land use planners
- Local elected officials
- Tribal government representatives
- Private property owners near or along a coastline
- Recreation organization
- Accessibility organization
- Environmental or conservation organization
- Tourism organization
- Coastal business representative
- Land trust or watershed council
- Green infrastructure or parks professional
- Emergency management professional
- Public Works Director or staff
- Representatives who serve or are members of historically marginalized populations¹
- Youth (under 25 years) or representative of youth serving organization
- Individual coastal trail user (hiker, equestrian, ATV, etc.)
- Academia or Oregon State University Sea Grant/Extension

Proposed Agency Representatives:

- Oregon Parks and Recreation Department
- Oregon Department of Transportation
- Oregon Department of State Lands
- Oregon State Marine Board
- Oregon Department of Environmental Quality
- Oregon Department of Fish and Wildlife

IV. Draft Rulemaking Charge

The purpose of a rulemaking charge is to allow the commission to offer direction on project management, as well as express its expectations. In case of any need for guidance resolving any questions on project direction, staff and RAC members will rely on this guidance. Staff have included the draft charge as Attachment A.

¹¹ As defined in the State of Oregon Diversity, Equity, and Inclusion Action Plan (2021)

V. Recommended Action

The Department of Land Conservation and Development recommends the commission initiate rulemaking to create new rules under Goal 17 to provide clarity to local governments on identifying, maintaining, and improving public access to coastal shorelines, approve the draft charge included as Attachment A, and direct the department to appoint the RAC in the manner described in this staff report.

Proposed Motion: I move that the commission initiate rulemaking to create new rules under Goal 17 to provide clarity to local governments on identifying, maintaining, and improving public access to coastal shorelines, approve the draft charge included as Attachment A, and direct the department to appoint the RAC in the manner described in this staff report.

Alternative Motion: I move that the commission initiate rulemaking to create new rules under Goal 17 to provide clarity to local governments on identifying, maintaining, and improving public access to coastal shorelines, approve the draft charge included as Attachment A, and direct the department to appoint the RAC in the manner described in this staff report, with the following revisions [specify revisions].

VI. Attachments

a. Draft Rulemaking Charge

Attachment A: Coastal Public Access: Draft Rulemaking Charge

Goal 17: Coastal Shorelands, Implementation Requirement #6:

“Local government in coordination with the Parks and Recreation Division shall develop and implement a program to provide increased public access. Existing public ownerships, rights of way, and similar public easements in coastal shorelands which provide access to or along coastal waters shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.”

Proposed Charge:

Any proposed rule amendment should implement the intent of Statewide Land Use Planning Goal 17, Coastal Shorelands as interpreted by the commission. If initiated by the commission, DLCD’s Director shall appoint a Rulemaking Advisory Committee (RAC) to provide guidance to agency staff in preparing the draft rule. RAC members would accordingly be charged to work with agency staff to recommend new rules within OAR chapter 660 that provide guidance and clarity to local governments around developing and implementing a public access program to and along coastal waters.

The Land Conservation and Development Commission will consider amendments to administrative rules that:

- Seek to provide definitions to some of the terms in the Goal 17 provision.
- Establish parameters for what local governments should include in a *“program to provide increased public access.”*
- Establish criteria for maintaining or increasing public access sites within a jurisdiction.
- Provide more clarity on rights of way and public easements that provide public access to coastal waters and how they should be retained or vacated.
- Establish recommendations or requirements for coordination with tribal governments and state agencies when local governments vacate, change, or add public access points.
- Provide for the consideration of equitable public access, coastal hazard mitigation, and protection for cultural and natural resources within a local government program for coastal public access.

If approved, this charge would lead to the development of operating principles for the Rules Advisory Committee as they begin their work.