



# Oregon

Tina Kotek, Governor

## Department of Land Conservation and Development

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October 23-24, 2025

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director  
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Subject: **Agenda Item 6, October 23-24, 2025, LCDC Meeting**

## Urbanization and Wetlands Planning Rulemaking Initiation

### I. Agenda Item Summary

The Department of Land Conservation and Development (DLCD or department) is asking the Land Conservation and Development Commission (LCDC or commission) to initiate rulemaking for administrative rules implementing Statewide Planning Goal 5 for wetlands resources. The rulemaking would create an optional, alternative compliance pathway for wetlands resources when a city is preparing to annex lands from the urban growth boundary (UGB) to accommodate needed housing and economic development. This pathway would allow for housing and other urban development to occur outside of wetlands in urbanizing areas added to a UGB prior to completion of a Goal 5 wetland protection program.

**Purpose.** The department requests that LCDC initiate the rulemaking, consider and approve the rulemaking charge, and direct the department to appoint a Rulemaking Advisory Committee (RAC).

**Objective.** The rulemaking will be an amendment to allow an alternative approach to complying with Oregon Administrative Rule (OAR) 660-023-0250 when wetlands are known to exist in a UGB expansion area. For further information about this report, please contact Kevin Young, Senior Urban Planner at 503-602-0238 or [kevin.young@dlcd.oregon.gov](mailto:kevin.young@dlcd.oregon.gov).

## **II. Background**

When wetlands are known to exist in a UGB expansion area, Oregon Administrative Rules [660-023-0100](#) and [660-023-0250](#) require completion of a local wetlands inventory (LWI) in the expansion area. Under current estimates, necessary field work, data compilation, and Department of State Land (DSL) approval of an LWI can take two or more years. DLCD staff have heard from cities that the rules do not provide sufficient direction for navigating this period while simultaneously preparing for housing development and urbanization. DLCD staff have been coordinating closely with DSL and Governor Kotek's office to develop a strategy to address this issue.

Statewide Land Use Planning [Goal 5](#) is intended to protect natural resources, scenic and historic areas, and open spaces. A city's comprehensive plan must be compliant with rules in OAR 660-023 that implement Goal 5. Specifically, division 23 requires that cities must apply the resource-specific rules to Goal 5 resources, including wetlands, when a city "amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area" OAR 660-023-0250(3)(c).

When wetlands are known to exist in an expansion area, applying Goal 5 in that area means a city must: complete an LWI and wetlands assessment; submit the LWI and assessment to DSL for approval; and adopt local measures to protect high functioning, "significant" wetlands. DLCD understands that a city must complete the program's development steps in the Goal 5 rules before annexing lands added to its UGB, applying urban zoning, and issuing any development permits.

The reason for this Goal 5 process is that LWIs provide much better information on the location and extent of wetlands than other data sources, such as the National Wetlands Inventory or the Statewide Wetland Inventory. LWIs also describe the functions each wetland provides. LWIs and local Goal 5 wetland protection measures preserve important wetland functions in place, which in turn improve flood mitigation, surface water quality protection, ground water recharge, and important cultural resources.

DLCD staff, in partnership with staff from DSL, would like to engage a RAC to develop a policy approach that would allow cities to annex and zone new urban lands for residential development more quickly, while protecting wetlands until the city completes the Goal 5 process. To implement this strategy, the Land Conservation and Development Commission would need to adopt amendments to OAR 660-023-0100 and 660-023-0250. Rule amendments would allow housing development to proceed in non-wetland areas based on a DSL-approved determination of upland or wetland delineation. Once a city completes an LWI and adopts local protections for significant wetlands, a city could approve development in non-significant wetlands when authorized under a DSL wetland removal-fill permit.

Topics for consideration by the RAC will include standards related to: potential wetland presence in the absence of a delineation; applying Goal 5 following a UGB amendment; standards for interim wetlands protection that preserve the ability of a city to limit development in locally significant wetlands; and the transition from an interim protection program to a full local Goal 5 wetlands program.

**a. Rulemaking Advisory Committee**

The interests staff recommend be represented on the Rulemaking Advisory Committee follows. Due to the technical nature of the rulemaking, selection of RAC members will prioritize individuals who have knowledge of the history and structure of the state's Goal 5 wetland program and experience applying various components of DSL and Goal 5 wetland protection measures. The proposal below includes recommendations made by the Community Involvement Advisory Committee at the September 5, 2025, meeting. Staff will meet with the Local Officials Advisory Committee at its October 13, 2025 meeting.

<b>Recommended Rulemaking Advisory Committee Member Categories</b>
Local government staff with experience and knowledge of Goal 5 wetland issues, including staff from cities of various sizes and from a diversity of regions within the state
Local government staff with a focus on housing and economic development planning (may overlap with previous category)
Professional wetland consultants
League of Oregon Cities
Metro staff
Property owner interests
Development interests
Environmental advocates
Housing interests
Land Conservation and Development (LCDC) liaison
Community Involvement Advisory Committee (CIAC) liaison
Ex officio: Department of State Lands wetlands specialist

**III. 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 regarding the policy focus and implications for the rulemaking. The charge will be the instrument relied on by staff and the RAC for guidance when resolving questions on project direction. Staff have included the draft charge and list of recommended interests as included in the draft charge and organizational charter in Attachment A.

**IV. Recommended Action**

The department recommends that the commission initiate rulemaking, approve the draft charge included as Attachment A, and direct the department to appoint Rulemaking Advisory Committee members.

***Proposed Motion:*** I move that the commission initiate rulemaking to create an optional, alternative Goal 5 compliance pathway for UGB expansion areas as described in the staff report; approve the draft charge included as Attachment A; and direct the department to appoint a rulemaking advisory committee, recruiting members from categories included in the staff report.

***Alternative Motion:*** I move that the commission initiate rulemaking to create an optional, alternative Goal 5 compliance pathway for UGB expansion areas as described in the staff report with the following revisions [specify revisions]; approve the draft charge included as Attachment A; and direct the department to appoint a RAC soliciting interests included in the staff report with the following revisions [specify revisions].

## **V. Attachments**

### **a. Draft Rulemaking Charge and Organizational Charter**



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## Urbanization and Wetlands Planning Rulemaking Rules Advisory Committee (RAC) Draft Charge and Committee Charter

### **I. Purpose of the Urbanization and Wetlands Planning Rulemaking**

As cities work to develop housing to meet existing and future need, it has become clear that timing and capacity constraints are making it difficult for cities to comply with the Statewide Planning Goal 5 rules for wetlands. When wetlands are known to exist in an urban growth boundary (UGB) expansion area, Oregon Administrative Rule (OAR) 660-023-0250 in combination with OAR 660-023-0100 requires completion of a local wetlands inventory (LWI) for the expansion area. Field work, data compilation, and Department of State Lands (DSL) approval of an LWI can take two to three years. OAR chapter 660 division 23 does not provide sufficient direction for navigating this period while simultaneously preparing for housing and other urban development that will not negatively impact high functioning wetlands.

The purpose of the rulemaking is to create an expedited pathway for housing and other urban development to proceed in non-wetland areas added to a UGB prior to development of a Goal 5 wetlands protection program.

State and commission policy requires that the department creates opportunities for community involvement in the development of the rules. DLCD will livestream the meetings, post meeting summaries to the department's project webpage, and offer a public comment period to be advertised during meetings and via GovDelivery. Public hearing on proposed rules is tentatively scheduled to take place at the Land Conservation and Development Commission's (LCDC or commission) April 2026, meeting.

### **II. Charge to the Department and to the Rulemaking Advisory Committee**

This charge from the commission is intended to provide guidance to the department and the Rulemaking Advisory Committee (RAC) for the urbanization and wetlands planning rulemaking. LCDC initiates this rulemaking activity, guides it, and will ultimately decide what rules to adopt. The goal for this rulemaking effort is to support expedient development of housing, economic opportunity, and other urban services and amenities in areas subject to Goal 5 requirements, while ensuring that wetlands will be protected in the area.

The commission expects that the rulemaking process itself will take approximately eight months to complete (November 2025 – June 2026). Upon adoption, the department and commission will monitor implementation of the amended rules by local governments and will make rule or programmatic changes as needed.

### **Desired Outcomes of Rulemaking**

The commission charges the department and the RAC with recommending rules that will achieve these outcomes:

1. Prepare rule amendments that will support expedient development of housing, economic opportunity, and other urban services and amenities in areas subject to Statewide Planning Goal 5 requirements, while ensuring that wetlands are protected in these areas.
2. Take action with a sense of urgency
3. Develop rules that are clear and understandable
4. Coordinate with the Wetlands Technical Assistance Program (WTAP) grant program to ensure that projects may benefit from the wetlands rule amendments
5. Collaborate with Department of State Lands (DSL) staff to ensure that the rule amendments will support and harmonize with DSL's review of local wetland

inventories, wetland delineations, and determinations of uplands; as well as with their requirements for removal/fill permitting and wetland mitigation.

### III. **Organizational Structure**

**Membership.** According to the commission's charge, and informed by recommendations from the Community Involvement Advisory Committee and from the Local Officials Advisory Committee, RAC membership should include:

- Local government staff with knowledge and experience with Goal 5 wetland requirements, housing, and economic development planning, including staff from small cities and from a diversity of regions within the state
- Wetland experts and consultants
- League of Oregon Cities
- Association of Oregon Counties
- Metro staff
- Property owner interests
- Development interests
- Environmental/land use advocate
- Housing interests
- Community Involvement Advisory Committee liaison (invited)
- Ex officio member: Department of State Lands wetlands specialist

DLCD has invited tribal consultation on this rulemaking. Staff also invites tribal representatives to participate in the rule development process, either as members of the RAC or in government-to-government consultation.

### IV. **Meetings**

**Attendance at Meetings.** Members are expected to make a good-faith effort to attend all meetings. Staff expect that the RAC will meet two to four times, including a contingent meeting following the commission's public hearing to consider the draft rules, but prior to commission adoption. The tentative schedule is included below. Because of the collaborative nature of the meetings, it is important to have the members attend consistently for continued discussions and shared learning.

**Summaries.** DLCD staff will prepare draft and final meeting summaries. Staff ask RAC members to communicate any corrections within two weeks of the distribution date of the draft. All final summaries will be posted on the [project webpage](#).

### V. **Decision-making and Commitments**

DLCD's goal in convening this RAC is to receive individual and group guidance on draft rules to be considered by LCDC for adoption at their June 2026 meeting. RAC members are encouraged to communicate their guidance at meetings or in writing.

If RAC members choose to articulate areas of agreement and disagreement, members representing the different perspectives on specific issues will be invited to prepare language reflecting their views. In addition, those members that support each perspective will be identified with their permission.

## **VI. Member Expectations**

**Collaboration.** RAC members agree to:

1. Bring up concerns for discussion at the earliest point in the process
2. Share all relevant information that will assist the RAC in achieving its goals
3. Keep their government or organization's leadership informed of recommendations formulated by the RAC
4. Keep the policy discussion at the RAC
5. Review and comment on draft and revised rules, impact statements and other associated strategies and/or documents
6. Share the draft rules for their organization's comment once published in the Secretary of State's bulletin

### **Preparation**

Members will make a good faith effort to review meeting materials in advance of each meeting.

**Press and Public Forums.** Please refer media inquiries about this process to DLCD staff. If a member does speak to the media, DLCD asks that RAC members identify that their views are their own, and not necessarily of the RAC or DLCD.

## **VII. Process**

Staff and RAC members agree to apply the following:

- Listen with respect, seeking to understand each other's perspectives
- Listen to other's points of view without interrupting
- Allow for a balance of speaking time while respecting time and agenda meeting goals
- Be tough on issues and questions, rather than on people and organizations
- As appropriate, discuss topics together rather than in isolation
- Seek to resolve differences and reach agreement



## VIII. Tentative Schedule

The RAC will meet approximately as follows, with a commission hearing in April 2026:

- |                               |                |
|-------------------------------|----------------|
| • 1st RAC meeting             | December 2025  |
| • 2 <sup>nd</sup> RAC meeting | January 2026   |
| • 3rd RAC meeting, if needed  | February 2026  |
| • Webinar on Draft Rules      | March 2026     |
| • 4th RAC meeting, if needed  | Early May 2026 |

*Other events within the larger rulemaking schedule:*

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|--|--------------|
| • LCDC initiation                            | October 2025 |
| • LCDC public hearing                        | April 2026   |
| • Anticipated LCDC deliberation and adoption | June 2026    |