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Oregon administrative rules for [Statewide Land Use Planning Goal 5](#) address Natural Resources, Scenic and Historic Areas and Open Spaces. Administrative rules to implement Goal 5 were first adopted in 1981 as [Oregon Administrative Rules Chapter 660, Division 16](#). In a review of Goal 5 in the mid-1990s, the Department of Land Conservation and Development (DLCD) convened a working group to recommend revisions to these rules. In 1996, the Land Conservation and Development Commission (LCDC) adopted revisions to Goal 5 and a new set of rules, Division 23 for inventory and protection of other Goal 5 resources. While the more generic rules in Division 16 continue to apply, the working group at the time recommended postponing development of specific rules for Cultural Areas until Government-to-Government relationships between the state and Oregon's nine federally recognized Tribal Nations (Tribes) were better established.

While "Cultural Areas" are listed in Land Use Planning Goal 5, the term remains undefined in the goal or Division 23. Cultural areas are understood to include archeological sites, and sites without an archaeological component, as well as Native American human remains and associated funerary objects, artifacts, places and sites important to culturally specific communities including but not limited to Tribes. Without a current working definition, implementation has varied. To inform a policy agenda item on this topic, DLCD staff have been in discussion with representatives of Oregon Tribes and other culturally specific organizations to explore how a new administrative rule for Goal 5 Cultural Areas could improve protections for areas and items that are important to one or more Tribe or communities.

To help understand practices at the local government level, DLCD staff developed a survey of local governments regarding cultural area protection and relationship with Oregon Tribes in 2022. Staff from 57 cities and counties responded. Just over half, (55%) indicated that they are not aware of any process their jurisdiction has for engaging with Tribes on cultural resources issues. Just under a quarter (24%) said that they are not aware of Oregon's statutes and rules regarding protection of significant archaeological sites.

By way of additional historical context, six of Oregon Tribes had not regained federal recognition status after the Western Oregon Indian Termination Act of 1954 until the late 1970s into the mid-1980s. Accordingly, Tribal representatives were not in a position to formally participate in the early comprehensive planning processes at the city and county level.

DLCD staff also are acutely aware of the real constraints on local governments planning staff today. Staff would strive to ensure ease of implementation of practices designed to improve protection of significant cultural areas.

Some of DLCD's guiding principles for this rulemaking include:

- Respect for the importance of development permitting timelines established in Oregon law.
- Native American artifacts, human remains and associated funerary objects are treated lawfully and with respect.
- Consistency with Governor Kotek's housing and associated development objectives.
- Data on known and suspected archeological sites maintained by the State Historic Preservation Office is used to avoid disturbance from locally permitted development activities, while maintaining appropriate confidentiality measures.
- Landowners and developers are informed, through the local permitting process, of existing state<sup>1</sup> and federal law pertaining to unintended disturbance of archeological sites.

Staff are interested in including other principles that are important for informing the rulemaking process. We envision a year-long rule writing process, to: explore strategies for archaeological site and other cultural resource area protection; consider different approaches for public and private land establish a definition for Goal 5 significant cultural areas; and identify resources needed to implement new review standards at the local level.

Please contact Amanda Punton for more information about this process at 971.718.3245 or by email at [apunton@dlcd.state.or.us](mailto:apunton@dlcd.state.or.us). For more information on Oregon's land use planning program, please see our website at <https://www.oregon.gov/lcd/Pages/index.aspx>.

<sup>1</sup> ORS 97.740-760, ORS 192.501(12), ORS 358.905-961, ORS 390.235, and OAR 736-051-0000 to 0090.