

Department of Land Conservation and Development
Goal 5 Cultural Areas Rulemaking
Applications for Amendments for Potentially Significant Cultural Features
Background
June 6, 2025

Overview

At the request of the Land Conservation and Development Commission (LCDC or commission), the Department of Land Conservation and Development (DLCD or department) convened a rules advisory committee (RAC) in May 2025. The purpose was specific and threefold: a) to consider how local governments should process applications for potentially significant cultural landscape areas, b) to consider who can bring these amendments directly, and 3) to resolve how Metro would process potentially significant cultural areas at the time of a urban growth boundary expansion. When filed with the Secretary of State, the Oregon Administrative Rules (OARs) that implement Statewide Land Use Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces will be found in OAR Division 23 (OAR 660-023-0210). After several years of process, this new rule for cultural areas was adopted by LCDC in December 2025. This backgrounder provides information for the RAC and other interested parties on why DLCD is considering the question of which entities should be eligible to submit an application to place a culturally significant landscape feature on a local inventory of significant sites.

Background

In 1996, LCDC revised Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces. The commission also adopted a new set of rules for implementing Goal 5 at that time.

When adopted in 1996, OAR chapter 660, division 23, included a rule specific to each Goal 5 resource category, except cultural areas. This outcome resulted from the recommendation of a DLCD-convened workgroup. The workgroup advised postponing development of a rule for cultural areas until the state and tribal governments in Oregon established better government-to-government relationships. A priority of Governor Kitzhaber, strengthening of state/tribe relationships was imperative. In the mid 90's, Oregon tribes were still rebuilding their capacities in the wake of the Western Oregon Indian Termination Act of 1954. Six of the nine federally recognized tribes in Oregon did not regain federal recognition status until the late 1970s into the mid-1980s. Accordingly, tribal representatives were not able to formally participate in the original comprehensive plan development processes and inventories at the city and county level.

After some years of work surveying local governments, working with representatives of tribal governments, and a rulemaking advisory committee, the commission adopted OAR 660-023-0210 on December 5, 2024. This is a new rule to direct implementation of Statewide Planning Goal 5 for cultural areas. This background paper addresses one element of the commission's charge: whether section (4) of the rule should be more explicit about the entities that may submit an application for adding a culturally significant landscape feature to a local inventory. As written, and according to the commission's initial charge, the rule allows Oregon federally recognized tribes and other culturally identified groups to bring an application, which then must be processed by the city or county receiving the application.

Members of the Tribal Workgroup that preceded the 2024 RAC recommended that the application process also be available to other culturally identified groups. DLCD and the RAC have since received requests from other tribes with ancestral lands in Oregon that they also be allowed to submit applications. RAC members also have expressed concern that other groups with loose cultural ties would use the rules to obstruct development.

Options

1. Status Quo. Retain the two categories of entities that can bring an amendment. Currently, the rule specifies that both a) Oregon federally recognized tribes and b) other culturally identified groups may file an application for an amendment to recognize a culturally significant landscape feature in a local government comprehensive plan with site specific protection measures.

2. Limit to Governments in Oregon. Specify that only Oregon-based government entities can bring applications. Governments would include local, state, and tribal governments federally recognized in Oregon. Culturally identified groups would retain the right to petition or request the local government initiate an amendment regarding a potentially significant landscape feature directly.

DLCD has received comments from federally recognized tribes outside of Oregon recommending that the cultural areas rule allow these tribes also to bring an application for a plan amendment to a local government. However, due to Oregon agencies' obligation to provide government-to-government relations to federally recognized tribes in Oregon, this is not a policy precedent that DLCD staff can recommend at this time. Tribal governments would retain the option of petitioning an Oregon city or county government to initiate an amendment for a potentially significant landscape feature directly.

DLCD also has received comments expressing concern that groups with loose cultural ties will try and use the rule and definition of other culturally identified groups to obstruct development generally. These comments are particularly significant given Oregon's housing crisis, and Governor Kotek and DLCD's priority to reduce barriers to the production of housing to the extent possible.

Next Steps

Department staff will seek the guidance of Rulemaking Advisory Committee members on this matter at their June 12, 2025 meeting. Staff expect to invite formal consultation and public comment on the rule in its entirety from September 1 – October 5, 2025. The department plans to ask the commission for their deliberation on all consultation and comments received by October 5 at their October 23-24, 2025 meeting. Currently, DLCD is considering an effective date for the rules of June 30, 2026. This period is intended to provide local governments time to update their local ordinances according to the new rules.

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