



Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

Oregon Coastal Management Program

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January 6, 2026

TO: Coastal Public Access Rulemaking Advisory Committee Members www.oregon.gov/LCD

FROM: Meg Reed, Coastal Policy Specialist, Amanda Macnab, Coastal Rules Coordinator



CC: Brenda Bateman, Ph.D., Commissioner Lianne Thompson, Lisa Phipps, Casaria Taylor, Matthew Hampton, Alexis Hammer, Alyssa Bonini

RE: Materials for January 13, 2026 RAC Meeting

Thank you for your continued commitment to the rulemaking effort around public access to Oregon's coastal shorelines. Enclosed please find the meeting agenda, last meeting's summary, an initial draft rule, and other meeting materials. Please review this packet before our second RAC meeting on **January 13th from 1-4pm.**

Organization of the Draft Rule

Please set aside some time to read the draft rule before the next meeting. As a reminder, the department is drafting a new rule to implement the requirements of Goal 17 regarding coastal public access. We have made some notes in "comments" in the margins of the draft. Come prepared with notes and thoughts to raise during the meeting if you can.

The rule begins with a short purpose section, followed by definitions. While hearing from members on definitions is critical, we caution spending too much time on definitions so we can walk RAC members through the entire draft rule and gather as much feedback as possible. We can revisit the definitions after getting through the rest of the rule.

Following the definitions section, the draft rule describes when the rule applies. The rest of the draft rule is currently broken into three additional sections: coastal public access program, modifying public access sites, and rights-of-way. This may change based on feedback received.

Logistics

This meeting will be hosted online. As RAC members, you should have a Zoom meeting link in your calendar invite to join the meeting. We invite everyone else to watch via the live stream on DLCD's YouTube channel. The YouTube channel link is also published on the agenda and on the rulemaking webpage [here](#). These materials also will be posted on the rulemaking webpage.

Next Steps

Based upon your feedback, DLCD staff will refine the draft rule for legally required impact reviews. The reviews address fiscal impacts, effects on housing costs, and racial equity. We are enlisting the services of a consultant to draft the impact statements for this rulemaking. We will provide the draft impact analysis for your review at our February meeting. The purpose and contents of the required impact statements are included in this packet as a preview for RAC Meeting #3.

Public Hearing Process

We expect this draft rule to evolve through the first public hearing of the Land Conservation and Development Commission at their meeting on April 23-24, 2026. Public testimony will be received at this meeting. A geographic hearing where public comment will be accepted in person will also be held in Newport in April 2026 (specific date to be determined). We will reconvene the RAC on May 13, 2026. We anticipate the commission to deliberate and potentially vote to adopt the rule at their meeting on June 25-26, 2026.

Packet Contents:

1. Meeting Agenda and RAC Meeting Schedule
2. Meeting #1 Summary
3. Draft coastal public access rule
4. Summary of required impact statements for the rule
5. Vacation of Rights-of-Way, League of Oregon Cities FAQ

Additional Information

The following resources were provided previously but are listed here again as a reminder.

- Public Access [webpage](#) on DLCD's website

- [Oregon's Coastal Public Access Guide for Local Government Planners](#)
- Online [inventory map](#) of coastal public access sites
- [Video](#) about the role of the RAC in rulemaking for DLCD
- RAC Meeting #1 [recording](#)
- DLCD [rulemaking](#) webpage

If you have any questions about the materials in this packet, please feel free to contact us via phone or email. Our information is listed below. On behalf of DLCD and the Land Conservation and Development Commission, we are grateful for your continued participation in this important initiative!

Meg Reed, Coastal Policy Specialist

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Lisa Phipps, Oregon Coastal Management Program Manager

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Mandy Macnab, Coastal Rules Coordinator

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Matthew Hampton, Rules Coordinator

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Coastal Public Access Rulemaking Advisory Committee

Second Meeting Agenda

January 13, 2026

1:00 – 4:00 PM

This meeting will be livestreamed at the Department of Land Conservation and Development (DLCD) YouTube page: <https://youtube.com/@OregonDLCD>. The recording and meeting materials will be posted to DLCD's Rulemaking [webpage](#).

To share written public comment with staff and members of the Rulemaking Advisory Committee (RAC), please submit written comments to coastal.policy@dlcd.oregon.gov.

This meeting will be hosted online. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Mandy Macnab at amanda.l.macnab@dlcd.oregon.gov or 971-720-0365 or by TTY: Oregon Relay Services (800) 735-2900. Thank you!

1: Welcome and Review of Agenda (1:00 – 1:15pm)

2: Draft Rule Overview (1:15 – 1:30pm)

- *Rule drafting best practices*
- *Orientation to the draft rules*
- *Discussion process*

3: Facilitated discussion (1:30 – 3:30pm)

- *Discuss draft rules and provide guidance for staff*
- *Break during this time if needed*

4: Wrap up and Next Steps (3:30 – 3:45pm)

- *Next meeting: February 17, 2026, 1-4pm*
 - *Topic: Revised rule and impact statements*

5: Closing Comments and Adjourn (3:45 – 4:00pm)

Rulemaking Schedule including RAC Meetings

- **October 2025:** LCDC Initiates Rulemaking
- **November 2025:** RAC recruitment
- **December 17, 2025:** RAC 1: Introductions, review charge and operating principles, background materials, schedule
- **January 13, 2026:** RAC 2: Review, discuss, revise draft rule language
- **February 17, 2026:** RAC 3: Final draft rules review, review fiscal, housing, and racial equity impact statements
- **March 31, 2026:** Deadline to file administrative rules with the Secretary of State
- **April 2026:** Geographic Hearing on the Coast
- **April 23-24, 2026:** Public Hearing with LCDC
- **May 13, 2026:** RAC 4: Finalize rules based on public comments and LCDC directives
- **May 14, 2026:** Close of public comment period
- **June 25-26, 2026:** Adoption with LCDC
- **September 2026:** Rules become effective

All meetings will be virtual.



Department of Land Conservation and Development

Coastal Public Access Rulemaking Advisory Committee Meeting #1 Notes

Date of Meeting:	12/17/2025	Location:	Virtual meeting via Zoom
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1. Attendees

DLCD Staff - Meg Reed, Casaria Taylor, Amanda Macnab, Lisa Phipps, Alyssa Bonini, Matthew Hampton, Kacy Markowitz, Brett Estes, Hui Rodomsky

Rulemaking Advisory Committee (RAC) Members – Commissioner Lianne Thompson, Briece Edwards, Arlene Merems, Adam Nielsen, Arica Sears, Brock Nation, Alan Hanson, Carlie Plybon, Alex Sifford, Don Pettit, Gail Hendrickson, Janine Belleque (OSMB Alt.), Jeff Mitchem, Kate Laquinto, Laurel Hillman, Laurie Friedman, Mandy Watson, Margaret Treadwell, Miranda Gray, Scott Fregonese, Stephanie Millar (ODOT Alt.), Wendy Giordano, Jeanne Sprague

2. Agenda Items

Description	Notes
Welcome, Opening Remarks, and Review Agenda	<p>Lisa Phipps, Manager of the Coastal Management Program, expressed gratitude from Director Brenda Bateman and the department for the committee's time and commitment.</p> <p>Meg Reed and Commissioner Leanne Thompson provided opening remarks, emphasizing the importance of the committee's work and the need for good governance in coastal public access.</p> <p>Meg Reed opened with the background for this rulemaking effort. Gave overview of the meeting agenda, meeting purpose, and overview of Zoom guidelines.</p>
RAC Member Introductions	<p>Introductions from DLCD Staff (see list above).</p> <p>Introductions of the Rulemaking Advisory Committee (RAC) Members (see list above). Each member stated their name and motivation in joining the RAC for this rulemaking.</p>



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Coastal Public Access Rulemaking Advisory Committee Meeting #1 Notes

<p>Review of Operating Principles and Guidelines, Role of the RAC, and RAC Charge</p>	<p>Meg Reed discussed Public Meeting Law and requirements needed for this rulemaking. Meg also went over RAC Charge (seek RAC Meeting Packet #1 for the full RAC Charge document).</p> <p>Mandy Macnab will provide a written meeting summary to the RAC before the next RAC meeting.</p> <p>DLCD will provide notice to the public via GovDelivery for each RAC meeting and each step of the rulemaking process. Sign-up for GovDelivery on rulemaking webpage.</p> <p>Meetings are open to the public to view via the agency's YouTube Channel. The link is posted on rulemaking webpage: Department of Land Conservation and Development : Rulemaking : Laws and Rules : State of Oregon.</p> <p>Written comments are accepted any time and should be sent to coastal.policy@dlcd.oregon.gov.</p> <p>All meetings will be recorded with Closed Captioning on.</p> <p>The RAC reviewed the Operating Procedures and Guidelines for RAC Members, also included in the RAC meeting packet.</p> <p>Meg Reed discussed desired outcomes of rulemaking. The commission has charged RAC members to work with agency staff to recommend new rules in accordance with the charge. New rules are to be developed 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 as required by Statewide Land Use Planning Goal 17, Coastal Shorelands. The role of the RAC is to be:</p> <ul style="list-style-type: none">• Advisory to staff• Provide policy feedback and guidance (not intended to seek consensus)• Recommend policies, language, and direction to staff• Considered “volunteers” by the state and will receive an overview accordingly• Supported by DLCD staff• Will comply with open meetings, public records, and ethics laws.
<p>DLCD, OCMP + Land use program overview, Goal 17 overview, public access requirements</p>	<p>Meg Reed gave a presentation on the Oregon Land Use Program and the Oregon Coastal Management Program for background context for the rulemaking effort and RAC members.</p> <p>All state agencies/authorities and cities and counties within Oregon are required to follow the requirements of all statewide planning</p>



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Coastal Public Access Rulemaking Advisory Committee Meeting #1 Notes

	<p>goals, and all coastal jurisdictions must include the coastal land use goals.</p> <p>Oregon Coastal Management Program (OCMP) is a federally approved program between state and federal government to work together to manage coastal resources. The program is administered by DLCD for the State of Oregon.</p> <p>Meg Reed explained the coastal goals apply to geographically specific areas along the coast, ocean, and in estuarine environments. Showed a map of Oregon's federally-approved Coastal Zone: 362 mile coastline, 22 major estuaries, 7 counties, and 32 cities.</p> <p>Meg Reed presented on Goal 17, which covers coastal shorelands, and planning requirements for lands boarding estuaries, coastal lakes, and the ocean.</p> <p>Explained various protected areas and implementation requirements, including public access types. Went over the implementation language that local governments and state agencies must comply with for coastal public access.</p> <p>Showed several examples of coastal shoreland boundary maps. Based on questions from RAC members, Meg Reed noted that while all coastal jurisdictions have identified coastal shoreland boundaries, inventories of public access sites vary in detail and format. The agency is working with coastal jurisdictions to help them update their coastal shoreland boundary maps and public access site inventories using GIS and other inventory data.</p> <p>The Oregon Coastal Management Program provides a GIS inventory of public access that can be downloaded: Access Planning. The inventory is updated via field surveys every 10 years. The last one was completed in 2021.</p>
Public Access in Oregon Tour of Access Sites	<p>Meg Reed provided an overview of Oregon's public access laws, discussed the Beach Bill of 1967, and Goal 17 that protects public access to tidal waters.</p> <p>Oregon State Parks and Recreation Department is the steward of Oregon's ocean shores and has permitting authority for the following:</p> <ul style="list-style-type: none">• Beachfront protective structures;• Beach access ways;• Dune grading;• Pipeline, cables; and



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	<ul style="list-style-type: none">• Natural product removal. <p>Meg provided a summary of a three-year federally funded process that was focused on public access, the outcomes of that project and the work of the Coastal Access Advisory Team.</p> <p>The presentation included different types of coastal access sites along the Oregon coast, including their legal designation such as rights-of-way, easements, and the intersection with private property.</p> <p>The RAC will assist DLCD staff in developing clear and focused rule language targeted to public access within the requirements of Goal 17. The RAC will assist DLCD staff in developing a new rule that does not have unintended adverse impacts on coastal communities or natural resources.</p> <p>Goal 17 text: OAR 660-015-0010(2).</p>
Rulemaking purpose review	<p>Meg Reed discussed LCDC's charge to the RAC again (see meeting packet).</p> <p>Meg outlined the rulemaking process for clarifying Goal 17 implementation, and emphasized that the rules cannot be an unfunded mandate on local governments.</p> <p>The group discussed the timeline for the rulemaking process, including upcoming meetings, and public comment process.</p> <p>Commissioner Thompson raised concerns about people disregarding rules and parking dangers near popular coastal access points, suggesting human behavior be considered in this rulemaking.</p>
Questions and /Discussion	<ol style="list-style-type: none">1. Do all coastal jurisdictions have coastal shoreland delineations? Yes, they are required to, but they can be in different formats. For example, some have text only descriptions, while others have maps.2. Are local inventories of public access points publicly accessible in a centralized place? Is their GIS maps/downloadable? Public access point inventories and shoreland delineations are provided by local jurisdictions as part of their comprehensive plans, which are available to the public on most jurisdictions websites. Some are more textual and others textual with maps. DLCD provides a public access inventory for the coastal zone, updated every ten years. Access Planning



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Coastal Public Access Rulemaking Advisory Committee Meeting #1 Notes

3. Follow-up

Next steps, wrap-up	Rulemaking Timelines: Dec 2025-May 2026 –RAC Meetings, Draft Rule Language February 2026 – Public Town Hall Q & A March 2026 – Legal review & notice April 2026 – Geographic Hearing & Public Hearing with LCDC June 2026 – LCDC Adoption September 2026 – Rule becomes effective
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4. Future Meetings

RAC meetings scheduled	RAC Meeting #2: January 13, 2026 from 1-4pm
	RAC Meeting #3: February 17, 2026 from 1-4pm
	RAC Meeting #4: May 13, 2026 from 1-4pm

Draft Coastal Public Access Rule

January 6, 2026

Summary of Goal 17: Coastal Shorelands, Implementation Requirement #6:

Local government, in coordination with the Oregon Parks and Recreation Department, shall develop and implement a program to provide increased public access. Local governments shall ensure that 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. Local governments may allow rights of way to be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

Goal 17 has one existing rule which is specific to water-dependent zoning. This is a new rule to address coastal public access topics: OAR 660-047.

Draft Rule

Purpose

The purpose of this division is to interpret and carry out the requirements of Implementation Requirement 6 of Goal 17 Coastal Shorelands (OAR 660-015-0010(2)) regarding public access in coastal shorelands.

Definitions

- (1) For purposes of division 047, the definitions contained in ORS 197.015 and the Statewide Planning Goals (OAR chapter 660, division 015) apply. In addition, the following definitions apply:
 - (a) **ACCESSIBILITY:** Access that specifically refers to disability related needs and barrier removal processes that meet or exceed the Americans with Disabilities Act regulations within coastal public access sites.
 - (b) **COASTAL LAKES:** Lakes in the coastal zone that are bordered by a dune formation or that have a direct hydrologic surface or subsurface connection with saltwater.
 - (c) **COASTAL PUBLIC ACCESS SITE:** Physical or visual access to or along the coastlines of the ocean, estuaries, and coastal lakes. Coastal public access sites may include features such as paths, trails, stairs, ramps, boardwalks, boat ramps, piers, docks, fishing platforms, and other water access and viewing amenities. Generally, public access is provided along publicly owned property, easements, and public roads and rights-of-way that end at or abut coastal shorelines. Other amenities that may be associated with coastal public access sites include parking, interpretive signage, emergency evacuation signage, restroom

36 facilities, and accessibility features for people with disabilities ranging from
37 mobility, cognitive and sensory.

- 38 (d) **COASTAL SHORELANDS:** Those areas immediately adjacent to the ocean, all
39 estuaries and associated wetlands, and all coastal lakes.
- 40 (e) **COASTAL SHORELINE:** The boundary line between a body of water and the land,
41 measured on tidal waters at mean higher high water.
- 42 (f) **COASTAL WATERS:** Territorial ocean waters of the continental shelf; estuaries; and
43 coastal lakes.
- 44 (g) **CULTURAL AREAS:** Archaeological sites or landscape features of cultural interest,
45 and sites where both are present. Also referred to as “cultural resource sites.”
- 46 (h) **PRIMARY ACCESS SITES:** Physical or visual access points to or along coastal
47 waters that are currently improved or developed with amenities such as parking,
48 interpretive signage, emergency evacuation signage, restroom facilities, or
49 accessibility features for people with disabilities.
- 50 (i) **SECONDARY ACCESS SITES:** Sites to or along coastal waters that are in public
51 ownership but not improved or developed with trails, infrastructure, or amenities.
52 Secondary access sites include, but are not limited to, public roads and rights-of-
53 way that end at or abut coastal shorelines.

54 Statement of Applicability

- 55 (1) This division applies to all jurisdictions with identified coastal shorelands. It applies to
56 coastal shorelands and coastal shoreland public access sites. It does not apply to
57 private coastal access sites.
- 58 (2) This rule does not impact or change the jurisdictional boundaries or responsibilities of
59 the entities managing coastal waters or lands.
- 60 (3) The requirements of [*state specific numbers of the rule*] this rule apply when a local
61 government adopts or amends a Coastal Public Access Program or coastal public
62 access related policies within their comprehensive plan. A Coastal Public Access
63 Program includes an inventory, including maps, of coastal public access sites within a
64 jurisdiction, coastal public access related comprehensive plan policies, and related
65 implementing ordinances and development codes.
- 66 (4) The requirements of [*state specific parts of the rule*] this rule apply when a local
67 government modifies an adopted public access site. For purposes of this division, a
68 coastal public access site is modified when:
- 69 (a) An existing coastal public access site is vacated;
- 70 (b) A use or activity other than coastal public access is authorized; or
- 71 (c) A coastal public access site is sold, exchanged, transferred, removed, relocated,
72 or added.

- (5) This division does not mandate any changes to existing local comprehensive plans or land use regulations for coastal public access sites. Local governments may retain their existing comprehensive plan designations and land use regulations for coastal public access sites. Local governments must follow the requirements of **this rule** when a local government with coastal shoreland designations proceeds with a plan amendment process that impacts coastal public access sites or when an adopted public access site is modified as described in this rule.

Coastal Public Access Program

- (1) Local governments with coastal shorelands shall develop and implement a program to protect, maintain, and provide increased public access to and along coastal waters, hereafter referred to as a “Coastal Public Access Program.”
- (2) The requirements of this subsection must be followed when a local government adopts or amends a Coastal Public Access Program or coastal public access related policies within their comprehensive plan. A Coastal Public Access Program includes an inventory, including maps, of coastal public access sites within a jurisdiction, coastal public access related comprehensive plan policies, and related implementing ordinances and development codes.
- (3) The local government must coordinate with the following entities in the development and implementation of the local government’s Coastal Public Access Program:
- (a) Oregon Parks and Recreation Department for coastal public access sites that abut the ocean shore (**ORS citation for ocean shore**).
 - (b) Oregon Department of State Lands for coastal public access sites that are to or along estuaries and coastal lakes.
 - (c) Oregon Department of Fish and Wildlife for all coastal public access sites.
- (4) The local government shall also coordinate with other relevant state agencies, special districts, and neighboring local governments. At a minimum, the local government must provide each relevant entity with an opportunity to provide comment on the program before it becomes adopted.
- (5) The local government shall offer to engage in government-to-government consultation with tribes having historic ties to the area in which the sites are located. The local government shall consult with the Legislative Committee on Indian Services (LCIS) for information as to which tribes have historic ties to the area in which the sites are located.

Coastal Public Access Program – Inventory:

- (6) At a minimum, a Coastal Public Access Program must include the following information:

- 109 (a) An inventory of all coastal public access sites within the jurisdiction of the local
110 government.
- 111 (A) The inventory shall contain both primary and secondary access sites.
- 112 (B) For each site in the inventory, the inventory must include the following
113 information:
- 114 (i) A map or specific site location;
- 115 (ii) Ownership and management of the site;
- 116 (iii) Type of site (e.g., physical access or visual access);
- 117 (iv) Whether the site is part of the Oregon Coast Trail or any other known trail
118 network;
- 119 (v) Description of the accessibility features, if any, of the site;
- 120 (vi) Whether the site is needed for emergency access;
- 121 (vii) Whether the site is needed for evacuation; and
- 122 (viii) Identification of potential future improvements of the site, such as
123 accessible signage, environmental protections, parking, bathrooms, ramps,
124 or other features and amenities. These considerations may not be
125 appropriate for every site.
- 126 (b) An inventory of priority areas the local government has identified for increased
127 coastal public access sites. Additional priority areas to consider for increasing
128 access include, but are not limited to:
- 129 (A) Areas to or along the coastline where access is currently lacking. The inventory
130 must describe whether these areas provide the opportunity for public access, or
131 if they do not provide the opportunity for public access, describe why they do not
132 provide the opportunity for public access.
- 133 (B) Land acquisition opportunities of privately held property that could provide an
134 opportunity for public access if the land were publicly owned.
- 135 (C) Connections with public transportation systems to provide coastal access
136 opportunities to the greatest number of people.
- 137 (c) Reference to any other applicable plans that have been developed for coastal public
138 access within the local government's jurisdiction.
- 139 (d) A plan for maintenance of inventoried sites, including the jurisdictional
140 responsibilities of each site, routine and regular inspections, strategies for repairs or
141 cleaning, coordination with emergency services if applicable, and other needs
142 specific to each site.
- 143 (e) For any sites that include a right-of-way for access, the program must include a map
144 or geographic description that delineates the area that is publicly owned or
145 managed and the area that is privately owned or managed to help alleviate
146 trespassing issues.
- 147 (f) A description of coastal shoreland areas where public access may not be
148 appropriate and why. Public access may not be appropriate in certain areas due to
149 the presence of sensitive species or habitats, working waterfronts, or cultural areas.

- (7) Local governments shall use the decadal database from the Oregon Department of Land Conservation's Oregon Coastal Management Program as the basis for their coastal public access inventory but may augment that database with available local information.

Coastal Public Access Program – Implementing Policies:

- (8) A local government must adopt a Coastal Public Access Program into the local government's comprehensive plan.
- (9) When adopting the Coastal Public Access Program into its comprehensive plan, the local government shall also adopt implementing policies and ordinances, if applicable, to protect, maintain, and enhance public access to coastal waters in accordance with the Coastal Public Access Program.
- (10) Coastal Public Access Programs shall consider and balance the need for public access with the negative impacts of public access on cultural areas and natural resources along coastal shorelands. The local government may rely upon the resources and knowledge of tribes and state or federal agencies to avoid and minimize potential impacts to cultural areas and natural resources.
- (11) Local governments may wish to include additional information in their Coastal Public Access Program that goes beyond the minimum requirements described above. Additional information may include consideration of the following:
- (a) Natural hazards and their impact and potential future impact on coastal public access sites.
 - (b) Development of an adaptive management framework to manage and continue to provide coastal public access into the future.
 - (c) Potential for development or redevelopment of areas surrounding coastal public access sites and how that development may impact those public access sites.
 - (d) Requirements for coastal public access sites to be included with new development projects in coastal shoreland areas, such as subdivisions or hotels.

Coastal Public Access Program – Process:

- (12) Local governments shall identify a process within its comprehensive plan for updating the Coastal Public Access Program on a regular basis. A local government may use the decadal update to the coastwide public access inventory from the Oregon Department of Land Conservation's Oregon Coastal Management Program as a timeline for aligning local planning updates.
- (13) A local government may add a new public access site to an adopted Coastal Public Access Program at any time through the post-acknowledgement plan amendment process. New sites added must include the inventory information as required in

subsection 6(a) of this rule. Additionally, a local government must meet the following criteria at the time of the addition to the inventory:

- (a) Any new coastal public access site must have necessary easements, ownership, or private property access agreements in place, prior to adoption;
- (b) Provide notification to the relevant tribes and state and federal agencies; and
- (c) If applicable, adopt protections for cultural resources, archaeological sites, or natural resources on or near the site, and mitigation measures to ensure that any negative impacts from public access to cultural and natural resources along coastal shorelands are avoided, minimized, or mitigated.

(14) A local government shall not vacate sites identified in the Coastal Public Access Program as needed for emergency access unless a replacement site in the same general area can be utilized for that purpose instead.

(15) A local government shall ensure that coastal public access sites within its jurisdiction are not blocked, hidden, or otherwise disguised to prevent the public from using a site that is meant for public access.

Replacing Public Access Sites

(1) This subsection of the rules applies to any action within a local government that modifies (as defined in the Statement of Applicability Section of this rule) a coastal public access site.

(2) The local government shall retain, or replace if sold, exchanged, or transferred, existing public ownerships, rights-of-way, and similar public easements in coastal shorelands, which provide access to or along an estuary, ocean or coastal lake, including secondary public access sites.

(3) If an existing coastal public access site is sold, exchanged, or transferred, the replacement of that site must include the following:

- (a) Analysis of why the existing site can no longer provide public access to or along the shoreline. Cost cannot be the only factor considered.
- (b) Identification of an alternative site. The replacement site must be within the local government's jurisdiction and as close to the existing site as possible.
- (c) If the site being sold, exchanged, or transferred is a primary public access site, a secondary access site may be used as a replacement site, as long as:
 - (i) The secondary access site is upgraded to a primary access site in the adopted coastal public access inventory, and
 - (ii) A plan for the development of amenities to improve the site as a primary coastal access site is completed at the time of replacement.
- (d) If the site being sold, exchanged, or transferred is a secondary public access site, a secondary access site may be used as a replacement site, as long as:

- (i) The secondary access site is upgraded to a primary access site in the adopted inventory, and
 - (iii) A plan for the development of amenities to improve the site as a primary coastal access site is completed at the time of replacement.
- (e) A new site not already included in the jurisdiction's coastal public access inventory may be used as a replacement site, as long as:
 - (i) The new access site is added to the jurisdiction's public access inventory;
 - (ii) The new access site can be utilized by the public at the time of replacement; and
 - (iii) A plan for the development of amenities to improve the site as a primary coastal access site is completed at the time of replacement.
- (4) The local government may develop additional criteria for determining an acceptable replacement site for a public access site that is being removed.

Rights-of-Way

- (1) This subsection of the rules applies to any action within a local government that vacates a right-of-way that provides public access to or along the coastal shoreline.
- (2) A local government may vacate rights-of-way to permit redevelopment of coastal shoreland areas provided public access across the affected site is retained. The retained public access must:
 - (a) Be clearly identified;
 - (b) Be to or along the same water body as the vacated area;
 - (c) Be owned or held by a public entity;
 - (d) Be of the same type as the vacated area (e.g., physical access, visual access, or both); and
 - (e) Retain connection to the Oregon Coast Trail or other known trail network, as applicable.
- (3) Rights-of-way that provide coastal public access and that are to be vacated must be a quasi-judicial land use decision with notice and opportunity for public comment. Notice must include relevant state agencies, federal agencies, and tribes.
- (4) State agencies that manage public access sites are required to notify the relevant local government when vacating a right-of-way that is used for public coastal access.

Summary of Required Impact Statements with Rulemaking

Fiscal Impact Statements

The purpose of a Fiscal Impact Statement (“FIS”) is to give notice to anyone who may have a fiscal impact from a new or updated Oregon Administrative Rule. The FIS should therefore describe the purpose of the rule, attempt to identify people or entities the rule will financially affect and to describe, as well as possible, what that financial effect will be.

Per the Administrative Procedures Act (APA) manual, DLCD and by association, its contractors, is not required to conduct original research. DLCD is required to use available information to identify any significant financial effect of the proposed rule. DLCD is required to identify any persons this proposed rule could affect economically (quantitative estimate of how the proposed rule affects these entities or explain why DLCD cannot make the estimate) including:

- Small businesses;
- State agencies;
- Local governments; and
- Public.

Housing Impact Statements

Oregon Revised Statute (ORS) 183.530 and 183.534 requires DLCD to include in a notice of rulemaking an estimate of the proposed rule's impact on housing costs. The Housing Impact Statement (“HIS”) should provide an estimate of the effect of the proposed rule:

- On the cost of development of a 6,000 square foot parcel; and
- On the construction of a typical 1,200 square foot detached single-family dwelling on that parcel.

Statements Identifying How Rule Adoption Will Affect Racial Equity in this State

Consistent with House Bill 2993 (2021 Legislative Session) and the associated amendments to ORS 183.335(2)(a)(F), Contractor shall produce a racial equity impact statement (“REIS”). The racial equity statement must address only the effects of the rule. House Bill 2993 does not define “racial equity”, and there is no one meaning of the phrase as a term of art. The ordinary meaning of “racial equity” is treating people of all races fairly, justly, and without bias. A statement of how a rule will affect “racial equity”, means how the rule will affect the fair, just, and unbiased treatment of people of different races.



FAQ: Vacating a Public Right- of-Way

APRIL 2019

Last updated by LOC Attorneys April 2023

FAQs

Vacating a Public Right-of-Way

For many cities, public rights of way are the most valuable and commonly used public asset. They connect residents to each other and the places they live and work, provide options for transportation throughout a city, and organize utility infrastructure in a manageable and safe space. A public right-of-way consists of the space on, above, and below city streets, alleys, paths, and sidewalks. A right-of-way is public property and is held in trust by the government—whether the state, a county or a city—for the benefit of the public. Thus, cities have a legal obligation to manage their rights of way for the benefit of their citizens.

Cities and other governments can acquire a right-of-way through a variety of methods, including dedication, a grant, condemnation, annexation, transfer, and prescriptive use. When giving up a public right-of-way, however, a city's options are significantly more limited. The process of giving up the public's interest in a right-of-way is called **vacation**. Vacation formally removes the public's interest in the control of the right-of-way and returns control of the land to the underlying owners. Property owners can initiate a vacation by filing a petition with the city and the city council can choose whether to begin the vacation process. In either case, the council must hold a public hearing and consider objections to vacation. Because the city has a legal duty to manage rights-of-way for the public benefit, vacation is only proper if the city council determines that the vacation is in the public's interest.

The following FAQ answer some basic questions about right-of-way vacation and outline the steps in the process of vacation. This document is not meant as a substitute for legal advice, and League members are encouraged to speak with their city attorneys for specific advice about the vacation process.

1. Why Would a Landowner Pursue a Right-of-Way Vacation?

A developer may wish to seek a vacation of the right-of-way to facilitate development of a whole parcel, especially where a right-of-way crosses through a proposed development. In return, the city may determine that vacating the right-of-way in the interest of development represents the best use of the right-of-way for the public benefit.

2. Do Any State Laws Govern Right-of-Way Vacation in Oregon?

Yes. Chapter 271 of the Oregon Revised Statutes govern the statewide process for vacating a public interest in land. That process generally involves the submission of a petition to the governing body, a public hearing on the proposed vacation, and a determination of whether vacation is in the public interest. Those steps are explained more fully below.

3. Do Any Local Laws Govern Right-of-Way Vacation?

Maybe. Apart from ORS Chapter 271, local charters and codes may contain additional, different, or contrary provisions that govern right-of-way vacations in their respective jurisdictions. ORS 271.170 states that the provisions of ORS Chapter 271 that govern vacation are alternatives to local charter or code provisions and do not supersede those provisions. Thus, it is critical to check a local charter and code for any rules that may govern right-of-way vacation. In the case of a conflict between the local charter and the state law, the local charter will control.

4. What is the Process for Initiating a Vacation Under ORS Chapter 271?

Pursuant to ORS 271.080, property owners can initiate a vacation by filing a petition with the city. The petition must set out the property proposed for vacation, the purpose for which the property will be used, and the reason for the vacation. The petitioner must also include the signatures of all owners of property which abut the one proposed for vacation, indicating their consent. Under ORS 271.090, the petition must be given to the city recorder, and the city recorder must inform the petitioner when the petition will come before the city council.

5. What Does the City Council Do with the Petition?

In accordance with ORS 271.100(1), the city council must schedule a hearing on the petition “if there appears to be no reason why the petition should not be allowed in whole or in part.” Also, the city recorder must post a notice of the hearing on the petition per the terms of ORS 271.100.

At the hearing, the city council must listen to any objections against the petition and determine three things:

1. Whether the consent of the necessary owners has been obtained;
2. Whether notice of the proposed vacation was proper; and
3. Whether vacating the public right-of-way is in the public interest.

6. What Actions Can the Council Make in Response to a Petition?

Under ORS 271.100, the council is permitted to deny the petition after notifying the petitioner of its decision. Depending on the council’s determination of public interest, it may choose to either grant in whole or grant the vacation in part while also denying it in part. If the city council decides to grant the petition and vacate the right-of-way, in whole or in part, the council must pass an ordinance and make its determination a matter of record. *See* ORS 271.120.

7. Does a City Need to Wait for a Petition Before It Vacates a Right-of-Way?

No. Under ORS 271.130, a city council may initiate vacation proceedings and vacate a right-of-way without a petition, and without consent of adjacent property owners. The city council must, however, provide notice of the vacation, and may not vacate the property before the date of the hearing. Further, pursuant to ORS 271.130, if the owners of a majority of the property affected by the proposed vacation object to the vacation in writing, the city may not vacate a street without consent of the adjacent property owners if the vacation will affect the market value of their property, unless the city pays damages to the property owners.

8. Do Property Owners Have the Right to Appeal a Vacation Decision?

Yes. When a city council decides to vacate property under ORS 271.130, without a petition or consent of the property owners, “[a]ny property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter.”¹

9. Is ORS Chapter 271 the Only Procedure for Vacating a Right-of-Way?

No. Although ORS 271.080 to ORS 271.230 outlines specific procedures for a landowner to petition a city to vacate a right-of-way, or for a city to initiate a vacation, ORS 271.170 expressly states that the authority granted by those statutes is not exclusive. Thus, cities possess broad powers to vacate their streets and other rights of way apart from the processes in ORS Chapter 271. In a recent case, the Oregon Supreme Court stated that a city’s failure to follow the procedures in ORS Chapter 271 when vacating a right-of-way does not render the city’s action unlawful.²

That said, most cities in Oregon follow the processes outlined in ORS Chapter 271, while occasionally adding additional steps, such as a pre-application meeting:

- Portland Bureau of Transportation, Steps for Vacating a Street³
- Newberg Right-of-Way Vacation Application⁴
- La Grande Application for Right-of-Way Vacation⁵

¹ ORS 271.130(4).

² See *West Linn Corporate Park, LLC v. City of West Linn*, 349 Or 58, 97 (2010).

³ <https://www.portlandoregon.gov/transportation/article/213937>.

⁴ <http://www.newbergoregon.gov/planning/page/right-way-vacation-application>.

⁵ https://www.cityoflagrande.org/sites/g/files/vyhlf6946/f/uploads/application_-_right-of-way_vacation.pdf.