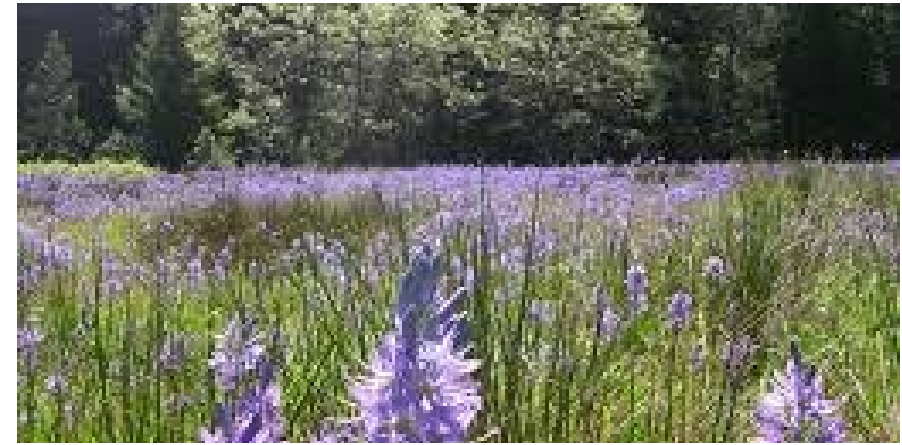


Goal 5 Cultural Areas Rulemaking



July 9, 2024

League of Oregon Cities Webinar on Rulemaking Process

Amanda Punton, Natural Resource Specialist

Kirstin Greene, Deputy Director and Tribal Liaison

Lianne Thompson, Clatsop County Commissioner, LCDC Liaison

Why this Rule?

To protect natural resources and conserve scenic and historic areas and open space

- ✓ Corrects a gap in Oregon's comprehensive planning framework
- ✓ Completes a 1995 opportunity to develop a rule specific to cultural areas
- ✓ Increases understanding of state archaeological resource protection – developers, local governments
- ✓ Increases notice and information available – Tribes, property owners, local governments
- ✓ Enriches Oregon's cultural understanding – current and future generations



Charge, Abbreviated

- Use development permits to increase understanding of state laws
- Provide information on state laws to protect archaeological objects and sites of archaeological significance
- Define and establish Goal 5 processes for areas of cultural significance
- Provide direction for keeping sites confidential

Cultural Areas Project Update Guiding Principles

October 19, 2023

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 and federal law pertaining to unintended disturbance of archeological sites



Oregon Land Use Planning Goal 5:
Cultural Areas Project Update

October 19, 2023

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.



Next Steps

Sign up for Gov Delivery email notices!

- Draft rule available at DLCD's Rulemaking web page for cultural areas
<https://www.oregon.gov/lcd/LAR/Pages/Goal5.aspx>
- Secretary of State Notice
September 1, 2024
- First hearing at LCDC
September 26-27, 2024
- Comment period open through October 15, 2024
- Adoption considered at LCDC
December 5-6, 2024
- Program implementation ongoing: technical assistance, guidance documents

Goal 5 Cultural Areas Rulemaking Advisory Committee Membership

Updated March 29, 2024

Government/Agency/Interest	Name of Representative
City planner, Portland	Nick Starin
City planner, Salem	Kimberli Fitzgerald
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians	Courtney Krossman
Confederated Tribes of Grand Ronde	Briecce Edwards
Confederated Tribes of Siletz Indians	Peter Hatch
Confederated Tribes of the Umatilla Indian Reservation	Carey Miller
Confederated Tribes of the Warm Springs Reservation of Oregon	Raymond Tsumpti
Coquille Indian Tribe	Sara Palmer
County planner, Association of Oregon Counties designee	Inga Williams
County planner, Coos County	Jill Rolfe
Cow Creek Band of Umpqua Tribe of Indians	Brandi Knutzen
DLCD Citizen Involvement Advisory Committee	Jennifer Eisele
Equity Manager, Lane County	Latiffe Amado
Gorge area planner	Kelly Howsley-Glover
Japanese American Museum of Oregon	Hanako Wakatsuki-Chong
Klamath Tribes	Les Anderson
League of Oregon Cities	Ariel Nelson
Oregon Department of Transportation	Kassandra Rippee
Oregon Legislative Commission on Indian Services	Elissa Bullion
Private developer	Keenan Ordon-Bakalian
Representative of land use advocacy organization	Ed Sullivan
Representatives of property rights organization	Dave Hunnicutt
State Historic Preservation Office, Outreach Coordinator	Kuri Gill
State Historic Preservation Office, State Archaeologist	John Pouley

Statewide Land Use Goal 5

To protect natural resources and conserve scenic and historic areas and open space

Shall be inventoried:

Riparian Resources

Wetlands

Wildlife Habitat (including sage grouse)

Wild & Scenic Rivers

State Scenic Waterways

Groundwater Resources

Approved Oregon Recreation Trails

Natural Areas

Wilderness Areas

Mineral & Aggregate Resources

Energy Sources

Cultural Areas

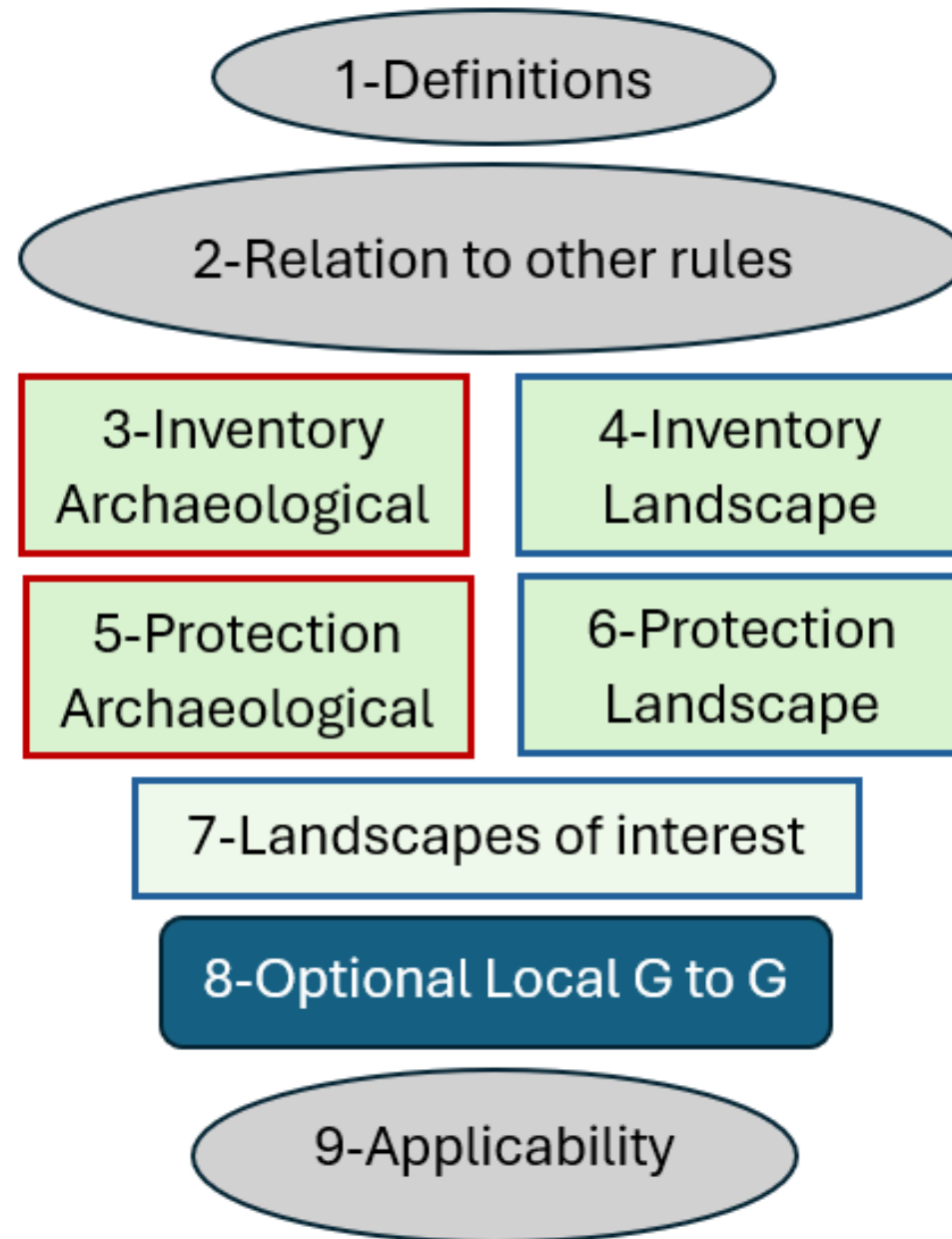
Inventories are encouraged:

Historic Resources

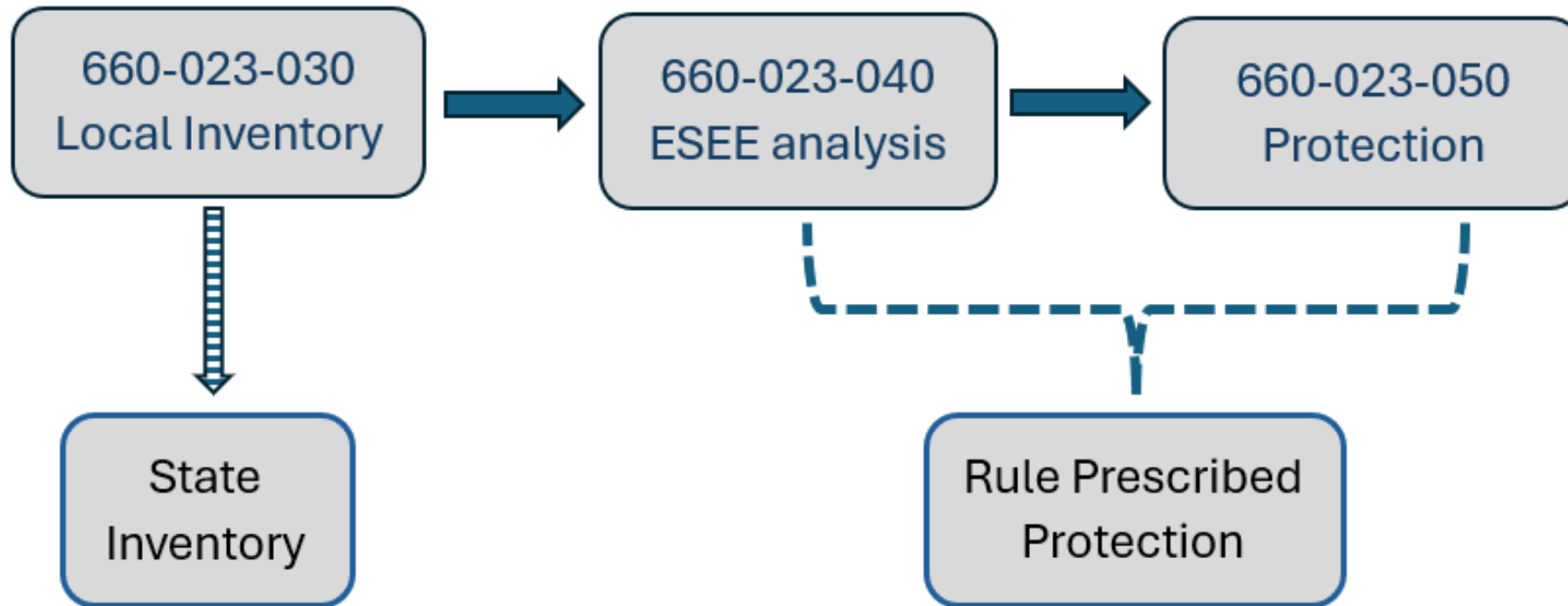
Open Space

Scenic Views & Sites

Draft Rule Structure



Goal 5 Standard Process



Standard Process and Modifications from
Resource-Specific Rules

Key Elements of the Draft Rule

- **Information about State Historic Preservation Office Rules**
 - For landowners and developers
- **Notice to Tribes**
 - Applications requiring quasi-judicial review that will result in ground disturbance
 - Clarifies pathways for applying Goal 5 to potentially significant landscape features in UGB amendments
- **Information for Planning Commission, City Council, and County Commission Decision**
 - Factoring cultural areas into long range planning decisions

The Draft Rule, Continued

- **Define and protect landscape areas of cultural significance**
- **Provide direction for keeping information confidential archaeological sites**
Supports awareness of and compliance with existing state archaeological laws
- **Landscape areas of cultural significance**
For Goal 5 significant resources, local protection measures based on an analysis of the economic, social, environmental, and energy (ESEE) analysis of a decision to allow, limit, or prohibit conflicting uses

Draft Rule, Continued

- **Optional local government to government consultation programs**
- **Sections of the rule apply directly**
 - Provide information on local application forms
 - Notice to interested Tribes
 - Reflect response to information provided



Questions
Discussion