



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Cody Field, Management Analyst II
Steve Koper, Assistant Community Development Director

DATE: August 22, 2022

SUBJECT:

Climate Friendly and Equitable Communities Status and Next Steps

EXECUTIVE SUMMARY:

On August 11, 2022, City Council convened an executive session to consult with legal counsel and address the question of whether the City of Tualatin should formally join legal action seeking to delay implementation of the Climate Friendly and Equitable Communities (CFEC) rules. CFEC rules were adopted by the Oregon Land Conservation and Development Commission (LCDC) on July 21, 2022 and went into effect on August 12, 2022

The City of Springfield and several other cities (Medford, Happy Valley and Troutdale to date have formally stated their intention to join) plan to file a challenge within the 60 days of the administrative rules' August 12, 2022 effective date. The rules can be challenged under ORS 183.400 under the following three circumstances:

- The rule violates constitutional provisions;
- The rule exceeds the statutory authority of the agency; and
- The rule was adopted without compliance with applicable rulemaking procedures.

Legal counsel has advised that the CFEC rules likely exceed the statutory authority of the Department of Land Conservation and Development (DLCD). Additionally, DLCD did not follow correct procedures in enacting the rules. Specially, the fiscal impact statement provides no reference to actual financial numbers, despite acknowledging that the rules will have a fiscal impact on local governments. It has been estimated that compliance with the rules will result in a fiscal impact in the range of \$5 to \$8 million for each city, according to the League of Oregon Cities.

Absent a delay in the rules' implementation, Tualatin will be required to comply with the following provisions on the below identified dates:

- **Reduced Parking Mandates** (0430 and 0440) go into effect **December 31, 2022**. Tualatin must update its development code by this date or apply the state rules directly:
 - One parking space maximum can be required per unit for new or redeveloped residential developments with more than one unit.
 - No minimum parking can be required for:
 - Facilities and homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, including but not limited to a: residential care

- facility, residential training facility, residential treatment facility, residential training home, residential treatment home, and conversion facility as defined in ORS 443.400;
 - Childcare facility as defined in ORS 329A.250;
 - Single-room occupancy housing;
 - Residential units smaller than 750 square feet;
 - Affordable housing as defined in OAR 660-039-0010;
 - Publicly supported housing as defined in ORS 456.250
 - Emergency and transitional shelters for people experiencing homelessness; and
 - Domestic violence shelters.
- **Reduced Parking in Climate Friendly Areas and High Transit Corridors** go into effect **June 30, 2023**. Tualatin must update its development code or adopt an alternative parking management approach by this date or apply the state parking maximum rules directly:
 - No minimum parking can be required for any new land use uses or redevelopment within Tualatin's adopted Town Center boundary and within ½ mile of its "high frequency" transit lines; OR selection of an alternative parking management approach.
 - Preferential carpool/vanpool parking; bike parking; transit oriented development; installation of tree canopy or solar panels in parking lots over ¼ acre; and adoption of parking maximums near downtown areas and transit centers.
 - Installation of electric vehicle charging conduit in new private, commercial, mixed-use, and multifamily developments.
- **Transportation System Update Changes** take effect after December 31, 2022. Tualatin's future amendments to its Transportation System Plan (TSP) must identify for development, funding and construction only projects that are listed on its and Metro's financial constrained project (OAR 660-012-0180). Projects, including those that are on Tualatin's existing capital project list, must be re-justified to identify how they reduce per capita vehicle miles travelled (VMT). This may not be possible in some cases, potentially requiring removal of those projects from the financially constrained project list. Developers may construct projects, such as a traffic signal, that are listed on the unconstrained-project list; however, typically those projects built through development receive System Development Charge (SDC) credits to offset the cost of construction. If the project is not listed as constrained, it is unclear whether these projects will continue to be SDC eligible and thus whether they will continue to be built.

In addition to the impacts highlighted above, staff is in the process of reviewing the final rules and communicating with regional partners to identify other potential impacts.

ACTIONS FOR COUNCIL CONSIDERATION:

- Join in the City of Springfield's legal challenge to the CFEC rules and contribute financially.
- Do not join in the legal challenge.
- Consider other strategies for achieving these goals.

FINANCIAL IMPLICATIONS:

The cost of litigation will be divided between the cities participating in the legal challenge. The cost for each city will be based on the size of a city's budget less American Rescue Plan Act (ARPA) funds and any pass-through funding. Tualatin's proportional share will depend on the number of cities that participate in litigation.