

RESOLUTION NO. 2575

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE JOINT LITIGATION OF THE CLIMATE FRIENDLY AND EQUITABLE COMMUNITIES LAND USE AND TRANSPORTATION PLANNING ADMINISTRATIVE RULES.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. That in 2007 the Oregon Legislature first established climate change goals for the State through House Bill 3543 and created the Oregon Global Warming Commission. The City generally agrees with the goals as expressed by the legislature.
2. That March 10, 2019, Governor Kate Brown chose to bypass the legislative process and issue Executive Order 20-04 which she stated was sweeping and comprehensive, and which directed state agencies to reduce climate pollution.
3. That in response to the Governor's Executive Order 20-04, on July 21, 2022, the Land Conservation and Development Commission (LCDC) adopted amendments to the Oregon Administrative Rules (OAR) Chapter 660, divisions 8, 12 and 44, commonly referred to as the Climate Friendly and Equitable Communities Rules (Rules).
4. That the Rules were intended to address issues of climate change and equity, but LCDC's rulemaking process failed to reach its objectives, as the Rules are too prescriptive and either conflict with other rules or do not recognize field constraints and conditions, or the context of the use and surrounding site to which they apply, and the Rules, as adopted, will adversely affect communities, and undermine the City's Home Rule Authority.
5. That the prescriptive nature of the Rules do not provide sufficient flexibility to address community feedback gathered through required community engagement, which will negatively impact trust between communities and local government.
6. That while local governments and the League of Oregon Cities participated to the maximum extent possible in the rulemaking process, most of the concerns raised by participating cities were ignored by LCDC in final rule adoption.
7. That additional time is needed to resolve the shortcomings and significant technical issues that affect implementation of the Rules in order to minimize the negative impact upon the communities.

8. That the Governor and the LCDRC may have exceeded their rulemaking authority in adopting the Rules and failed to properly follow the formal rulemaking process required by Oregon law.

9. That a coalition of municipalities with similar concerns has formed to raise a joint legal challenge to the Rules, and Intergovernmental Agreement (IGA) has been proposed to provide for sharing costs of joint outside legal counsel and joint communications representation for the coalition on a proportionate cost basis between coalition members.

10. That the City finds it has a mutual joint interest in seeking a joint legal review of the Rules with other local governments that the IGA enables the sharing resources and voids unnecessary duplication of staff, equipment, and training and will continue to promote efficiency and effectiveness in local government administration and service delivery.

11. That the Oregon Revised Statutes (ORS) 190.110 provides the necessary authority for the Cities to jointly enter into an IGA for an appeal of the Rules.

12. That an IGA is necessary to implement the joint collaboration of cities in the appeal of the Rules and the City desires to enter into the IGA, which will serve a valuable, necessary and authorized public purpose, and that doing so is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. Agrees now that the City enter into the Intergovernmental Agreement of Joint Litigation of Climate-Friendly and Equitable Communities Rules and the retention of special legal counsel Dave O. Bechtold to petition the Oregon Court of Appeals for legal review of the CFEC Rules on behalf of the City and other coalition parties, and hereby approves IGA in substantial conformity with Exhibit A of the Staff Report, but with any changes the City Official may determine necessary.

Section 2. The City Council finds that in accordance with the authority granted in Oregon Revised Statute (ORS) 190.110 entering into an IGA for the Joint Litigation of Climate-Friendly and Equitable Communities Rules, serves a valuable, necessary, and authorized public purpose and is in the public interest.

Section 3. The City Manager Ray Young, and Finance Director Erich Mueller, (each a "City Official") are designated, or a designee of the City Official, to act on behalf of the City, and without further action by the City Council, the City Official is hereby authorized, empowered and directed to sign the IGA on behalf of the City, and any and all other required and necessary documents to implement the intent of the IGA and this resolution.

Section 4. The City Official is hereby authorized to execute, acknowledge and deliver the IGA, including any other supporting and implementing documents, and to take any other action as may be advisable, convenient, necessary, or appropriate to give full force and effect to the terms and intent of the IGA and this resolution, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 5. Further, consistent with intent of the IGA, and in the best interest of the City, the City Official is authorized to determine, execute, acknowledge and deliver any subsequent addendums, extensions, revisions, modification, or successor documents of the IGA, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 6. Further, as applicable, to comply with State statutes, administrative rules or local ordinances, and to act in the best interest of the City, and without further action by the City Council, the City Officials are hereby authorized, directed, and responsible for fulfilling the ministerial, intergovernmental, technical, compliance, procedural or promotional functions as required for the effective administration and implementation of the IGA and this resolution, and to take any other action as may be advisable, convenient, necessary, or appropriate, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 7. The Finance Director is authorized to disburse funds, subject to annual appropriations, as necessary to fulfill the IGA obligations and the intent of this resolution and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 8. This Resolution shall take effect immediately upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Randy Lauer, Mayor

Date: September 14, 2022



Sarah Skroch, City Recorder

Adopted: September 13, 2022