



Oregon

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TO: Interested Persons, Local Governments and Agencies

FROM: Bob Rindy, Legislative Coordinator
Department of Land Conservation and Development (DLCD)

SUBJECT: 2011 Land Use Legislation

The attached report describes legislation relating to land use planning or similar topics enacted by the 2011 legislature. Note that not all the bills listed here are signed by the governor as of the date of this report. The report is also published on the DLCD web site at:

<http://www.oregon.gov/LCD/docs/legislative/landusebills2011.pdf>

The report provides only a brief summary of each legislative measure. Many of these new laws have elements in addition to those described in the summary, or may include details not apparent in the summary. Therefore, we recommend that you use the report primarily as a reference to new laws that may be of interest. In general, if legislation does not specify an effective date, the effective date of the new law will be January 1, 2012. However, many of the bills enacted in the 2011 session became effective upon passage. The report indicates the effective date of all bills that are signed by the governor at the time of this report.

The report includes hyperlinks for easy reference to a pdf file of the final “enrolled” version of bills published on the state’s legislative web site. The home page of the state’s legislative web site is <http://www.leg.state.or.us/>. All legislation considered in the 2011 legislative session, including a large number of bills that were considered but did not pass, may be accessed at http://www.leg.state.or.us/bills_laws. Printed copies of enacted legislation may be ordered by calling the Legislative Publication Office at the state capitol: (503) 986-1180. DLCD does not have printed copies of legislative measures available for distribution.

If you have questions or comments about the attached report or other legislation, please call DLCD legislative coordinators: Bob Rindy at (503) 373-0050 Ext. 229; email: bob.rindy@state.or.us; or Michael Morrissey, (503)373-0050 Ext. 320; email: michael.morrissey@state.or.us.

Land Use Legislation Report July 8, 2011

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

The following bills relating to land use planning or similar topics have passed the 2011 Oregon Legislature. Many but not all of the bills listed here have been signed by the Governor at the time of this report (asterisk * indicates bills not signed by the governor by the date of this report).

For questions about this report, contact Bob Rindy, (503)373-0050 Ext 229, bob.rindy@state.or.us; or Michael Morrissey, (503)373-0050 Ext 320, michael.morrissey@state.or.us.

For information about the Oregon Legislature, call (503) 986-1180.

SB 48

Summary: Limits the types of special districts over which the metropolitan service district exercises jurisdiction for boundary changes. Signed by the Governor, effective January 1, 2012 (Chapter 26, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0001.dir/sb0048.en.pdf>

SB 128

Summary: Removes obsolete reporting dates and requires a specified amount of proceeds from Highway User Tax Bonds to be spent on transportation projects. Requires the Department of Transportation to consult with legislative committees before expending certain federal economic stimulus money. Repeals laws requiring development of congestion pricing pilot program. Authorizes parking of up to seven dump trucks and up to seven trailers on lots or parcels of land zoned for forest use or mixed farm and forest use. Signed by the Governor, effective July 6, 2011 (Chapter 629, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0100.dir/sb0128.en.pdf>

SB 264

Summary: Exempts county roads from requirements to get a new approach permit for a change of use of a private approach road. Creates access management system under which the Department of Transportation must process applications for approach permits to owners of property abutting highways. Specifies standards for approach permits. Authorizes ODOT and a city to enter into agreement under which jurisdiction and ownership of a segment of a state highway transfers to a city. Includes other provisions. Signed by the Governor, effective June 14, 2011 (Chapter 330, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0200.dir/sb0264.en.pdf>

SB 535

Summary: Modifies provisions of law that restrict location of armories to land inside a city; provides that an armory may be constructed outside of city limits (does not modify

land use laws that may pertain to location of armories). Signed by the Governor, effective May 19, 2011 (Chapter 87, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0535.en.pdf>

SB 592

Summary: Declares that statutes authorizing or mandating award of attorney fees to parties in a proceeding such as judicial review or other appellate review, including statutes that authorize or require award of attorney fees in administrative proceedings, shall be construed as authorizing or mandating that award on appeal. Takes effect January 1, 2012; applies only to judicial review proceedings commenced on or after the effective date of act. Signed by the Governor, effective January 1, 2012 (Chapter 513, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0500.dir/sb0592.en.pdf>

SB 640

Summary: Authorizes division of land in an exclusive farm use zone in order to create a parcel smaller than the minimum lot or parcel size where the parcel is for establishment of fire service facilities providing rural fire protection services. Signed by the Governor: effective May 24, 2011 (Chapter 135, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0600.dir/sb0640.en.pdf>

SB 766

Summary: Establishes the Economic Recovery Review Council as an independent council that reports directly to the Governor and authorizes the council to perform expedited site reviews for proposed industrial development projects that have state significance. Requires the council to designate at least five and not more than fifteen regionally significant industrial areas within three years of the effective date of the act. Authorizes local governments to nominate regionally significant industrial areas for designation by the council and allows expedited permitting of industrial uses in regionally significant industrial areas if the new or expanded use does not require a change to a statewide planning goal, an acknowledged comprehensive plan or a land use regulation. Sets timelines and procedures for local government review of an expedited industrial use permit. Sunsets the council when the annual average unemployment rate for the most recent calendar year in Oregon is less than six percent. Signed by the Governor, effective June 28, 2011 (Chapter 564, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0700.dir/sb0766.en.pdf>

SB 795

Summary: Requires Land Conservation and Development Commission to adopt revisions to the transportation planning rules (OAR 660, division 12) to streamline, simplify and clarify certain aspects of the rules before January 1, 2012. Requires the Oregon Transportation Commission to adopt revisions to the Oregon Highway Plan, streamlining, simplifying and clarifying certain aspects of plan before January 1, 2012. Requires report to Legislative Assembly before February 1, 2012. Signed by the Governor, effective June 17, 2011 (Chapter 432, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0700.dir/sb0795.en.pdf>

SB 960

Summary: Creates processes by which counties may conditionally approve up to 18 agri-tourism events and other commercial events or activities related to and supportive of agriculture in areas zoned for exclusive farm use (EFU), including events in EFU areas designated as rural or urban reserves. Signed by the Governor, effective June 28, 2011 (Chapter 567, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/sb0900.dir/sb0960.en.pdf>

HB 2129

Summary: Modifies and clarifies the process for local government to make post-acknowledgment changes to comprehensive plans and land use regulations, including post-acknowledgment plan amendment notice procedures. Provides for electronic notice. Adjusts notice requirements with respect to a change in a proposed local amendment proposed after the initial notice to DLCDC. This legislation was proposed by the Department of Land Conservation and Development. Signed by the governor, effective January 1, 2012 (Chapter 280, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2129.en.pdf>

HB 2130

Summary: Modifies provisions regulating periodic review of comprehensive plans and regional framework plans, including provisions for LCDC review of urban growth boundaries and urban reserve designations “in the manner of periodic review,” and including provisions regulating judicial review of orders of Land Conservation and Development Commission. Resolves gaps and ambiguities in current procedural requirements and clarifies the record, scope and standards for LCDC review. Ensures concerns are raised and addressed at the local level before being raised at the review level. This legislation was proposed by the Department of Land Conservation and Development. Signed by the Governor, effective June 23, 2011 (Chapter 469, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2130.en.pdf>

HB 2131

Summary: Modifies criteria for establishment and review of needed housing within urban growth boundaries (UGBs). This legislation consolidates, re-orders, and otherwise clarifies statutes under ORS 197.303-197.307 but is not intended to change the intent of these statutes (these statutes ensure that cities provide sufficient land to accommodate needed housing for the 20-year UGB planning period). This legislation was proposed by the Department of Land Conservation and Development. Signed by the Governor, effective January 1, 2012 (Chapter 354, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2131.en.pdf>

HB 2132

Summary: Modifies provisions of DLCDC pilot program that authorize transfer of development rights between properties in areas designated as sending areas and receiving areas. The 2009 Legislature established a Transfer of Development Rights (TDR) Pilot Program administered by DLCDC to test TDRs as a market-based method to

conserve forest land for forest use. The 2009 law authorized up to three “pilot projects” to test these TDR ideas on the ground. This bill authorizes additional unincorporated communities as “receiving areas” for transferred rights, and allows higher transfer ratios than the 2009 legislation in certain circumstances. Includes additional incentives. This legislation was proposed by the Department of Land Conservation and Development. Signed by the Governor, effective May 27, 2011 (Chapter 144, 2011 Laws).
<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2132.en.pdf>

HB 2154

Summary: Expands definitions of farmworker and contributor for purposes of farmworker housing tax credits and makes exception to provisions barring credits for dwellings occupied by relatives of owner in case of manufactured dwelling park nonprofit cooperatives. The expanded definition and exceptions in this legislation do not apply on land zoned exclusive farm use; the existing definitions and other provisions for farmworker housing on EFU land were not modified but were moved by this legislation to ORS 215.277 with related amendments to ORS 215.278. Signed by the Governor, effective September 29, 2011 (Chapter 471, 2011 Laws).
<http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2154.en.pdf>

HB 2688

Summary: Corrects statutory references related to review of urban reserve designations. Signed by the Governor, effective January 1, 2012 (Chapter 150, 2011 Laws). NOTE: Due to conflicts between HB 2130 and HB 2688 (which had passed earlier in the session than HB 2130) section 2 of HB 2688 amending ORS 197.626 is repealed by HB 2130 and does not go into effect.
<http://www.leg.state.or.us/11reg/measpdf/hb2600.dir/hb2688.en.pdf>

HB 2700

Summary: Allows person proposing removal or fill activity for construction or maintenance of a linear facility, including persons who are not the land owner, to apply for a removal or fill permit. Restricts the use of such permit. Signed by the Governor, effective June 16, 2011 (Chapter 370, 2011 Laws).
<http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2700.en.pdf>

HB 2753

Summary: Extends the “sunset”, from 2012 to 2018, for provisions authorizing establishment of guest ranches in EFU areas of eastern Oregon. Prohibits establishment of guest ranches in certain federally designated areas or in an area established by Congress for protection of scenic or ecological resources. Signed by the Governor, effective January 1, 2012 (Chapter 451, 2011 Laws).
<http://www.leg.state.or.us/11reg/measpdf/hb2700.dir/hb2753.en.pdf>

HB 3166

Summary: Establishes ultimate time limits for a person to file a request with Land Use Board of Appeals for review of a land use or limited land use decision due to certain procedural or notice errors. The appeal period may not exceed three years after the

date of the decision in certain circumstances, and may not exceed 10 years in circumstances where notice is required but has not been provided. Signed by the Governor, effective June 23, 2011 (Chapter 483, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3100.dir/hb3166.en.pdf>

HB 3225*

Summary: Authorizes a county to take exception to a statewide planning goal where necessary to allow establishment of transportation facilities in an area designated as urban reserve. Declares emergency, effective on passage.

<http://www.leg.state.or.us/11reg/measpdf/hb3200.dir/hb3225.en.pdf>

HB 3280*

Summary: Modifies statutes regulating establishment of wineries and winery sales and services in exclusive farm use zones. Authorizes up to 25 days of events at wineries and also allows counties that have previously permitted events at wineries to continue to do so. Creates a new "large winery" category; allows restaurants and more than 25 days of events for large wineries. Includes other provisions. Declares emergency; includes a sunset for portions of the bill. Effective on passage.

<http://www.leg.state.or.us/11reg/measpdf/hb3200.dir/hb3280.en.pdf>

HB 3290

Summary: Makes a minor modification to the farm income standard adopted by Land Conservation and Development Commission for establishing primary and accessory dwellings customarily provided in conjunction with farm use in areas zoned for exclusive farm use. Signed by the Governor, effective January 1, 2012 (Chapter 459, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3200.dir/hb3290.en.pdf>

HB 3408

Summary: Modifies provisions and authorizes placement of irrigation reservoirs by certain special districts or corporations as outright permitted uses on land zoned for exclusive farm use. Affects irrigation property of irrigation districts, drainage districts, water improvement districts, water control districts and specified corporations. Signed by the Governor, effective January 1, 2012 Chapter 462, (2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3408.en.pdf>

HB 3465*

Summary: Authorizes the expansion of an existing guest ranch in the Silvies Valley area of Grant County to include 575 units of overnight accommodations and commercial uses on a 5,000 acre site. Exempts this development from statutes relating to guest ranches and other specified land use and land division statutes, statewide land use planning goals and provisions of Grant County's acknowledged comprehensive plan and land use regulations. Declares emergency, effective on passage.

<http://www.leg.state.or.us/11reg/measpdf/hb3400.dir/hb3465.en.pdf>

HB 3516

Summary: Authorizes installation and use of solar photovoltaic energy systems on residential or commercial structures in zones in which residential or commercial structures are authorized. Requires local government reviewing a permit application for such systems to make ministerial decision approving or denying permits, and prevents local government from collecting fees for applications to install solar photovoltaic energy systems. Limits certain land use reviews of such sites and creates exceptions. Signed by the Governor, effective January 1, 2012 (Chapter 464, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3500.dir/hb3516.en.pdf>

HB 3572

Summary: Changes the time frame within which the owner of a destination resort site previously proposed in the Metolius River basin but prohibited by 2009 law may apply to the county to develop a small-scale recreation community at another location. Modifies the application of the seasonally-adjusted unemployment rate for the county as a basis for siting a community authorized by the 2009 law. Signed by the Governor, effective January 1, 2012 (Chapter 404, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3500.dir/hb3572.en.pdf>

HB 3620

Summary: Allows a person to file a request for reconsideration of a claim under Ballot Measure 49 (2007) if person's date of acquisition of property was affected by conveyance of the property and the person reacquired the property within 10 days after conveyance (less than ten claims are estimated to be affected by this bill). Signed by the Governor, effective January 1, 2012 (Chapter 612, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb3600.dir/hb3620.en.pdf>

HB5032

Summary: Appropriates moneys from General Fund to the Department of Land Conservation and Development for certain biennial expenses and provides funds for local planning grants. Limits certain biennial expenditures from fees, moneys or other revenues. Limits biennial expenditures by the department from federal funds. Signed by the Governor, effective July 1, 2011 (Chapter 254, 2011 Laws).

<http://www.leg.state.or.us/11reg/measpdf/hb5000.dir/hb5032.en.pdf>