



Oregon

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TO: Interested Persons, Local Governments and State Agencies

**FROM: Dan Eisenbeis, Urban Policy Analyst / Legislative Coordinator
Department of Land Conservation and Development**

SUBJECT: 2016 Land Use Legislation

The attached report describes legislation enacted by the 2016 Legislature that is related to land use planning or programs administered by the Department of Land Conservation and Development (DLCD). All of the bills listed here have been approved by the Governor. This report is also published on the DLCD website at: www.oregon.gov/LCD/Pages/publications.aspx

This 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 include details not apparent in the summary. We recommend that you use the report primarily as a reference to new laws that may be of interest. Unless the legislation specifies an effective date or includes an emergency clause (effective upon passage), the new law will take effect on January 1st, 2017. The attached report indicates the effective date of each new law included in the report, as well as the 2016 Oregon Laws chapter number assigned to each new law.

State law (ORS 197.646) requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or land use regulations implementing those plans. The department is providing this report for that purpose with the caveat that DLCD cannot determine which bills will apply to particular local governments.

One of the bills that may require changes to city acknowledged comprehensive plans and/or land use regulations is SB 1573. SB 1573 limits city annexation voter approval provisions, which might be imbedded in existing comprehensive plan and/or land use regulations. SB 1573 may also affect city charters and other codes.

Additional bills listed in this report may also require changes for certain local governments. Certain bills also authorize, but do not require, local plan and code amendments. Others may apply only to specific local governments indicated in the legislation. The department suggests local governments seek advice from legal counsel in considering whether new laws on this list require local changes and *when* such changes should be adopted given the applicability date of the new laws. Finally, we note that some of these new or amended statutes may soon be reflected in new or amended DLCD administrative rules adopted in response to the legislation.

Oregon Law (ORS 197.646) requires that “*a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement.*” Furthermore, this statute requires that, “*when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government’s land use decisions.*”

This report includes hyperlinks to pdf copies of each final “enrolled” bill. Information about all legislation considered in the 2016 legislative session is available from the [Oregon Legislative Information System](#).

If you have questions or comments about the attached report or other legislation, please contact Dan Eisenbeis, Urban Policy Analyst/Legislative Coordinator at 503-934-0020 or dan.eisenbeis@state.or.us.

Cc: LCDC, LOC, AOC

Final Report on 2016 Land Use Legislation

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

The following bills relating to land use planning or similar topics have been enacted by the 2016 Oregon Legislature.

For questions about this report, contact Dan Eisenbeis, (503) 934-0020, dan.eisenbeis@state.or.us. For information about the Oregon Legislature, visit www.oregonlegislature.gov.

SB 1517 – Wetlands in EFU: This bill authorizes Tillamook County to establish a pilot program for applying conditional use review to wetland restoration in areas zoned for exclusive farm use (EFU). The bill also specifies a project-specific collaborative process for settlement of disputes, and directs Tillamook County as part of a pilot program to initiate a planning process to identify areas suitable for wetland restoration and priority areas for agriculture. The bill requires Tillamook County to report the progress of the pilot program to the legislature each biennium through 2025. The authorization for the pilot program will sunset in January 2027.

Effective: January 1st, 2017
Chapter 84, Oregon Laws 2016

SB 1533 – Inclusionary Zoning and Construction Excise Tax: This bill authorizes city and county use of inclusionary zoning to require that up to 20% of units in multifamily housing developments of at least 20 units be sold or rented at affordable rates, if the jurisdiction also offers developers certain incentives. The bill also requires a city or county that implements inclusionary zoning to provide the options for developers to pay an in-lieu fee. The bill also lifts the general preemption on city and county authority to impose new local construction excise taxes (which had previously been scheduled to sunset in 2018), subject to certain requirements to use the revenue for housing programs and incentives. The bill also removes the sunset on the preemption of new local construction excise taxes for purposes not specified in SB 1533.

Effective: June 2nd, 2016
Chapter 59, Oregon Laws 2016

SB 1573 – Annexation in Cities with Voter Approval: This bill specifies that if all property owners in an area within a UGB and contiguous to a city boundary petition the city for annexation, the annexation is not subject to voter-approval, if the area is or will be subject to the

acknowledged comprehensive plan and the proposal conforms to all the other requirements of the city's ordinances.

Effective: March 15th, 2016
Chapter 51, Oregon Laws 2016

SB 1598 – **Marijuana:** This legislation includes provisions to clarify that both recreational and medical marijuana are a crop for purposes of “farm” and “farm use” in statute, and prohibits new dwellings, farm stands, and commercial uses in conjunction with a marijuana crop on land designated for exclusive farm use. The bill also allows existing medical marijuana grow sites registered with the Oregon Health Authority of 5,000 square feet or less outdoors and 1,250 square feet or less indoors to be exempt from the Oregon Liquor Control Commission licensing requirement to obtain a land use compatibility statement.

Effective: March 3rd, 2016
Chapter 23, Oregon Laws 2016

SB 5701 – **State Budget:** This bill amends the State budget for the 2015-17 biennium. Provisions affecting DLCD include administrative adjustments as well as an increase in the department's other funds expenditure limitation by \$216,000 for a pre-disaster mitigation planning grant awarded by the Federal Emergency Management Agency to the Office of Emergency Management and DLCD.

Effective: March 29th, 2016
Chapter 82, Oregon Laws 2016

HB 4014 – **Marijuana:** This bill makes a number of changes to statutes governing production, processing, sale, and use of marijuana. The provisions include requiring an applicant to obtain a land use compatibility statement from a city or county prior to receiving a license from OLCC, rather than the current requirement that OLCC request the land use compatibility statement after receiving an application for a license.

Effective: March 3rd, 2016
Chapter 24, Oregon Laws 2016

HB 4018 – **Annexation of Jackson County Industrial Lands:** This bill extends the sunset from 2016 to 2026 on the annexation prohibition for certain unincorporated Jackson County industrial lands without the consent of the landowner.

Effective: April 7th, 2016
Chapter 121, Oregon Laws 2016

HB 4039 – **Rural Airport Definition / Through the Fence:** This legislation revises the definition of rural airport for purposes of “through the fence” operations to include airports with an air traffic control tower. An air traffic control tower was constructed last summer at the Aurora airport, where “through the fence” operations have been allowed.

Effective: March 14th, 2016
Chapter 35, Oregon Laws 2016

HB 4084 – **Brownfield Redevelopment Tax Incentives:** This legislation authorizes a city, county, or port to establish a local program to provide property tax incentives for brownfield remediation and redevelopment for a period of up to 10 years, and for up to an additional five years based upon locally established criteria. A program established by a city, county, or port only becomes effective with the agreement of taxing districts representing a combined 75 percent or more of the total rate of property taxation within the territory of the city, county, or port.

Effective: June 6th, 2016
Chapter 96, Oregon Laws 2016

HB 4079 – **UGB Expansion for Affordable Housing Pilot Project:** This legislation directs LCDC to create a pilot program for two cities, one with a population of 25,000 or less and one with a population of 25,000 or more, to expand their UGBs by up to 50 acres for affordable housing. The bill provides that the expedited UGB expansion process for the pilot sites may be established without regard to whether an UGB contains a 20-year land supply and requires a local government to protect a pilot project site for continued use as affordable housing for 50 years. The bill directs LCDC to develop rules for selecting projects nominated by a local government that demonstrate efforts to accommodate and encourage needed housing within its existing UGB. It also specifies that local governments in the following areas are not eligible to participate in the pilot program: Clackamas, Marion, Multnomah, Polk, and Washington counties, and the portion of Jefferson County served by the North Unit Irrigation District. HB 4079 allocates \$100,000 to DLCD to implement the provisions of the bill and requires LCDC to complete rulemaking to implement the pilot program by July 1, 2017. It also requires LCDC to

report on the progress of the pilot program to the Legislature three consecutive sessions and three consecutive interim periods beginning with the 2017 legislative session.

Effective: March 15th, 2016
Chapter 52, Oregon Laws 2016

HB 4126 – **UGB Rules Grandfather Clause:** This bill conforms statute to recent [UGB rule amendments](#) adopted by the Land Conservation and Development Commission to make clear that a city outside Metro that initiated, but did not complete, an UGB evaluation and amendment process prior to January 1, 2016 (the effective date of the rules) may choose to complete its UGB process under the old rules or under the new rules.

Effective: March 29th, 2016
Chapter 81, Oregon Laws 2016