



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

August 26, 2021



TO: Interested Persons, Local Governments and State Agencies

FROM: Emma Land, Legislative Coordinator
Department of Land Conservation and Development

SUBJECT: 2021 Land Use Legislation Report

2021 LAND USE LEGISLATION REPORT

I. INTRODUCTION

The attached report describes legislation passed in the 2021 long session by the Oregon Legislature related to land use planning or programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under “Legislative Information” at: <https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest, and that readers refer to the bills directly for a full picture of legislative intent and law.

This report includes hyperlinks for easy download of a pdf file of “Introduced” or “Engrossed” versions of bills published on the Oregon Legislative Information System (OLIS). All legislation considered in the 2021 legislative session may be accessed at <https://olis.leg.state.or.us/liz/2021R1>. As staff continue to telework due to public health concerns, DLCD does not maintain printed copies of legislative measures for distribution.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans¹.

¹ 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.”

II. LEGISLATION

[HB 2006](#) –Emergency Shelter Bill

Summary: HB 2006 requires local governments to approve applications for emergency shelters meeting certain criteria, notwithstanding local land use regulations, zoning ordinances, comprehensive, or other locally adopted plans. The bill provides protections around designated areas relating to natural disasters or hazards.

Status: Signed into law **Effective Date:** May 12, 2021

[HB 2008](#) – Affordable Housing

Summary: HB 2008 provides a tax exemption for property owned by a religious organization that is held or used solely to provide affordable housing to low-income households, conditional on 60-year affordable housing covenant. The bill limits local government restrictions on affordable housing provided by religious nonprofit corporations to health, safety, habitability, and infrastructure concerns, and local governments are required to approve affordable housing developments on any parcels zoned other than industrial or that are contiguous with residential zoned parcel without requiring those parcels be rezoned as residential.

Status: Signed into law **Effective Date:** September 25, 2021

[HB 2109](#) – Renewable Energy Facility Definition

Summary: HB 2109 serves as a fix to HB 2329, which passed in 2019. HB 2109 provides that counties will not need reimbursement for Measure 56 notices relating to renewable energy facilities. Accordingly, DLCD will not need to reimburse counties for these costs. The bill redefines “renewable energy facility” to include only those solar, wind, and geothermal facilities on exclusive farm use lands as originally intended in 2019.

Status: Signed into law **Effective Date:** May 21, 2021

[HB 2110](#) – Costs to File Notice of Petition with Land Use Board of Appeals

Summary: HB 2110 increases the fee to file a notice of intent to appeal a land use decision or limited land use decision with the Land Use Board of Appeals to \$300 and eliminates the required deposit for costs.

Status: Signed into law **Effective Date:** July 1, 2021

[HB 2160](#) – City of Pendleton Affordable Housing Pilot Project

Summary: HB 2160 relates to HB 4079, passed in 2016, which established an affordable housing pilot project that would allow for a limited expansion to a selected city’s urban growth boundary of no more than 50 acres. Previously, two pilot projects in the cities of Bend and Redmond were eligible. HB 2160 allows the Land Conservation and Development Commission to consider and approve plans for a project nominated by the city of Pendleton, subject to certain conditions. The bill requires that application must be submitted to and approved by the commission on or before June 30, 2023. Additionally, the bill sunsets the entire affordable housing pilot program on January 2, 2028.

Status: Signed into law **Effective Date:** September 25, 2021

[HB 2272](#) – Lane County Transitional Housing for 2020 Wildfires

Summary: HB 2272 requires Lane County to approve a planning application for the development of a permanent recreational vehicle park or campground under specified circumstances.

Additionally, HB 2272 makes a fix to recently passed legislation, HB 2289. The bill authorizes a local government to require a property owner to submit a permit application for the approval or siting of a nonresidential use that was destroyed or interrupted by the 2020 wildfires only for the purpose of establishing such conditions that are necessary to maintain participation in the National Flood Insurance Program.

Status: Signed into law **Effective Date:** June 23, 2021

[HB 2289](#) – Streamlined Process for Restoring Uses Damaged in 2020 Wildfires

Summary: HB 2289 allows applicants to choose an optional streamlined process for the replacement or restoration of residential and non-residential uses damaged in wildfires occurring between the beginning of August and the end of September 2020. The bill is mostly intended for property owners to only rebuild or replace existing structures rather than allow for modification or expansion. Under this process, applications for replacement or restoration must be filed on or before September 30, 2025. The bill contains provisions allowing communities to require dwellings to comply with local flood hazard regulations to maintain participation in the National Flood Insurance Program.

Please note that HB 2272 provides a correction to HB 2289 regarding participation in the National Flood Insurance Program.

Status: Signed into law **Effective Date:** June 11, 2021

HB 2312 – Relocated Property Line Intact

Summary: Under current Oregon law, a lawfully created lot or parcel of real property remains intact unless it is subdivided, or relevant lot lines are vacated. HB 2312 provides that lawfully created units of land with property lines that have been relocated pursuant to a circuit court judgment may also remain intact without additional validating procedures and prohibits denying permits because of the judicial boundary change.

Status: Signed into law **Effective Date:** January 1, 2022

HB 2534 – Homeowners Associations Removal of Discriminatory Language

Summary: HB 2534 requires homeowners associations for planned communities and condominiums with residential units to review and remove discriminatory language from governing documents on or before December 31, 2022. Discriminatory language includes restrictions based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, disability, or number of individuals – including family members, people of close affinity, and unrelated people – who occupy a dwelling within occupancy limits. The measure also allows for discriminatory language to be removed without a vote of owners or board members if certain criteria are met.

Status: Signed into law **Effective Date:** September 25, 2021

HB 2560 – Public Access to Meetings Held by a Governing Body of a Public Body

Summary: HB 2560 requires all meetings held by a governing body of a public body to reasonably provide the public with an opportunity to access and attend the meeting by telephone, video, or other electronic or virtual means, and to allow oral and written testimony by electronic or virtual means when in-person testimony is allowed. These requirements apply to hearings under comprehensive land use and county planning and zoning statutes, but do not apply to contested case hearings under the Administrative Procedures Act.

Status: Signed into law **Effective Date:** January 1, 2022

[HB 2583](#) – Prohibition of Maximum Occupancy Limits Based on Familial or Nonfamilial Relationships

Summary: HB 2583 prohibits local governments from establishing or enforcing maximum occupancy limits in residential dwellings based on familial or nonfamilial relationships among occupants.

Status: Signed into law **Effective Date:** January 1, 2022

[HB 2603](#) – Undersea Cables

Summary: HB 2603 directs DLCD, in consultation with the Department of State Lands and local and tribal governments, to review Part Four of the Territorial Sea Plan (TSP) related to the placement of undersea cables and provide the results to the Ocean Policy Advisory Council (OPAC). OPAC must consider the review and develop recommendations for the Land Conservation and Development Commission to amend Part Four of the TSP by rule no later than two years after the effective date of the bill.

The bill also requires an applicant for an easement to place an undersea cable within the territorial sea to acquire and maintain, until construction of the undersea cable is completed, financial assurance to ensure that the applicant constructs the undersea cable according to the terms and conditions of the easement.

Status: Signed into law **Effective Date:** September 25, 2021

[HB 2605](#) – Tsunami Design Standards

Summary: HB 2605 imposes several requirements on new development of certain structures in the tsunami inundation zone beginning with permits issued January 1, 2022. The Department of Geology and Mineral Industries (DOGAMI) must communicate certain information and any recommendations within 45 days of receiving development requests. Additionally, DOGAMI must annually report its assessments to the Legislative Assembly no later than September 15.

Status: Signed into law **Effective Date:** January 1, 2022

[HB 2611](#) – Agricultural Building Uses

Summary: HB 2611 authorizes additional uses of agricultural buildings that are exempt from the application of the state specialty code provided those uses meet specified criteria.

Status: Signed into law **Effective Date:** January 1, 2022

HB 2809 – Temporary Siting of Recreational Vehicles

Summary: HB 2809 prohibits a state agency or local government from disallowing the use of a recreational vehicle as a residential dwelling on a lot with a manufactured or single-family dwelling damaged by natural disasters until no later than the date the dwelling has received an occupancy permit, the local government determines the owner is unreasonably delaying repairs, or 24 months after the dwelling was deemed uninhabitable.

Status: Signed into law **Effective Date:** January 1, 2022

HB 2837 – Rural Reserves in Washington County

Summary: Lasich Lane is a private road in Washington County that is designated as rural reserve. The properties adjacent to the portion of Lasich Lane immediately west of SW Roy Rogers Road have no reserve designation. HB 2837 removes the rural reserve designation from that portion of Lasich Lane to be consistent with adjacent properties.

Status: Signed into law **Effective Date:** January 1, 2022

HB 2884 – Partition Extension

Summary: A unit of land becomes a lawfully established parcel when the county or city validates the unit of land, and the owner records the partition plat within 90 days. HB 2884 extends the time for a property owner to record the partition plat from 90 to 365 days and allows all existing validated permits to become lawfully established parcels if recorded by December 31, 2022.

Status: Signed into law **Effective Date:** January 1, 2022

HB 2918 – Surplus Land Inventory

Summary: HB 2918 requires local governments to identify surplus real property within an urban growth boundary or located in a rural residential area to the department on January 1 of each even-numbered year. This process is optional for mass transit or transportation districts. While DLCD is charged with developing and maintaining an online database, the agency is not responsible for the accuracy of inventory uploaded by local governments. The information is required to be available to the public online or through a web-based portal.

HB 2918 also requires city councils to consider, in the sale of city-owned real property, the potential of a given parcel for affordable housing development.

Status: Signed into law **Effective Date:** June 26, 2021

HB 3040 – Comprehensive Study of System Development Charges

Summary: HB 3040 requires the Oregon Housing and Community Services Department (OHCS) to conduct a comprehensive study of system development charges (SDCs) in consultation with the Department of Land Conservation and Development, Department of Environmental Quality, Department of Revenue, and the Oregon Business Development Department. OHCS must provide to the Legislature a preliminary report by December 31, 2021, and a final report by June 1, 2022. The bill also requires any local entity that charges SDCs to provide, starting on January 1, 2022, specified information related to SDCs either through a publicly accessible website or available to the public free of charge upon request.

Status: Signed into law **Effective Date:** June 24, 2021

HB 3155 – Cities over 10,000 in Metro Housing Needs Analyses, Cities under 10,000 Technical Assistance

Summary: In 2019, the Legislature passed HB 2003, which required each city with a population greater than 10,000 to conduct a housing needs analysis and to develop and adopt a housing production strategy to address unmet housing needs. HB 2003 allocated funding to DLCD to provide technical assistance to local governments for implementation. The language created ambiguities about obligations and timelines for cities within the Metro region.

HB 3155 clarifies the requirements intended by the 2019 legislation. It amends the statute to ensure that cities over 10,000 in the Metro region are required to conduct housing needs analyses and, where applicable, housing production strategies. Further, the bill allows all cities smaller than 10,000 to conduct housing needs analyses and to develop housing production strategies, making them eligible for technical assistance funding from DLCD. Finally, HB 3155 clarifies that cities in the Metro region conducting housing needs analyses must include the affordability of housing.

Status: Signed into law **Effective Date:** June 3, 2021

HB 3219 – Manufactured Dwelling Parks Rebuild from 2020 Wildfires

Summary: The September 2020 Oregon wildfires destroyed 20 manufactured dwelling parks in the state, eliminating over 1,000 homes for mostly fixed-income or low-income Oregonians. HB 3219 applies to manufactured dwelling parks destroyed on or after September 1, 2020. The bill requires local governments to approve the development of manufactured dwelling parks destroyed or impacted by natural disasters, provided the park complies with local natural hazard regulations to maintain participation in the National Flood Insurance Program. In addition, a local government may approve a zoning change to allow for a manufactured dwelling park in areas within the urban growth boundary if the destruction of such parks have contributed to a housing scarcity.

Additionally, HB 3219 includes several non-land use provisions not covered by DLCDC programs.

Status: Signed into law **Effective Date:** June 11, 2021

HB 3261 – Conversion of Property as Hotel or Motel to Emergency Shelter or Affordable Housing

Summary: HB 3261 requires local governments to allow the conversion of a property from use as a hotel or motel for use as an emergency shelter or affordable housing. These projects apply only within the urban growth boundary. Additionally, local governments may impose standards related to natural disaster or hazard mitigation.

Status: Signed into law **Effective Date:** May 6, 2021

HB 3318 – City of Bend Urban Growth Boundary Expansion

Summary: HB 3318 establishes an expedited land use planning process and associated deadlines for the development of the Stevens Road tract in Bend, owned by the Department of State Lands. It specifies public participation and consultation requirements, including the conceptual plan requirements and deadlines for the City of Bend and approval deadlines for DLCDC. To allow for the Stevens Road tract to be developed, DLCDC must approve expansion of the corresponding urban growth boundary and the associated comprehensive planning amendments. While DLCDC cannot review and approve using the statewide planning goals and rules, the alternative criterion in the bill is intended to track those requirements. Also, while DLCDC cannot deny the conceptual plan and related plan amendments, the department can remand the plan in part or whole and require the City of Bend to resubmit. This portion of the bill sunsets as of January 2, 2030.

Additionally, HB 3318 prohibits DLCD from approving the planning amendments unless at least 20 net acres are designated for residential housing restricted to specified minimum densities and preserved as affordable for at least 50 years. Of that acreage, at least six acres must be prioritized, to the extent allowed by law, to those households with at least one member employed by an education provider.

Lastly, HB 3318 also exempts dog training facilities from state structural specialty codes, defines terms, and authorizes incorporated cities to regulate dog training facilities within their boundaries.

Status: Signed into law **Effective Date:** September 25, 2021

SB 8 – Affordable Housing Applications in Commercial or Industrial Use Zones

Summary: SB 8 restricts local governments from denying or limiting the approval of affordable housing applications within areas zoned for commercial and industrial use, subject to certain zoning and property ownership conditions. The measure establishes density standards and conditions under which local governments must approve affordable housing applications.

Additionally, SB 8 allows affordable housing developer applicants to obtain attorney fees in prevailing appeals before Land Use Board of Appeals.

Status: Signed into law **Effective Date:** January 1, 2022

SB 16 – Rezoning of Land in the Eastern Oregon Border Economic Development Region

Summary: SB 16 allows up to 200 acres of exclusive farm use (EFU) lands located in the Eastern Oregon Border Economic Development Region to be rezoned to residential use without taking an exception to either land use planning Goal 3 (Agricultural Lands) or Goal 14 (Urbanization). Counties would no longer be required to amend their comprehensive plans when converting EFU land or go through the public process to receive approval to do so.

Status: Signed into law **Effective Date:** September 25, 2021

SB 19 – Department of Corrections Transfer Title to Lake County

Summary: SB 19 directs the Department of Corrections to transfer title of the Warner Creek Correctional Facility to Lake County once all remaining adults have been transferred to another facility, and land adjacent to the Two Rivers Correctional

Institution to the Port of Umatilla by January 1, 2022. If Lake County receives the land, the bill authorizes the county to amend its comprehensive plan or enact or amend any land use regulation without respect to statewide planning goals under certain conditions.

Status: Signed into law **Effective Date:** June 25, 2021

SB 391 – Accessory Dwelling Units in Rural Residential Zones

Summary: SB 391 allows counties to authorize an owner of a lot or parcel in a rural residential zone served by a fire protection service provider to construct one accessory dwelling unit (ADU) on the lot or parcel, subject to certain conditions and locally adopted land use regulations. Counties must ensure adequate setback requirements when a property is adjacent to land zoned for resource use, as well as adequate access for any wildfire mitigation efforts such as firefighting equipment, safe evacuation, and staged evacuation areas. Additionally, the bill prohibits the ADU from being used for vacation occupancy, and counties must also address water access and use.

Status: Signed into law **Effective Date:** June 23, 2021

SB 405 – Nonconforming Use Interrupted or Abandoned During Emergency Order

Summary: SB 405 allows a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020, temporarily limits or prohibits the use, or the restoration or replacement of the use. For the restoration or replacement of non-conforming uses damaged by wildfires from September 1 – 30, 2020, the restoration or replacement must commence no later than September 30, 2025.

Status: Signed into law **Effective Date:** May 12, 2021

SB 458 – Division of Property for Middle Housing

Summary: SB 458 establishes the conditions under which local governments must allow divisions of real property for new middle housing development on lots and parcels in residential zones in counties or cities within metropolitan service districts, cities with 25,000 residents or more, and cities outside metropolitan service districts with between 10,000 and 25,000 residents. The measure establishes certain conditions cities and counties may impose during review and approval of middle housing land division plans. Additionally, SB 458 disallows planned communities from prohibiting land divisions, regardless of restrictive covenants or other conditions on a given lot.

Status: Signed into law **Effective Date:** January 1, 2022

SB 762 – Wildfire Omnibus Bill

Summary: SB 762 covers multiple agencies and issues related to wildfire prevention, mitigation, and suppression, including wildfire risk mapping, the definition of wildland-urban interface (WUI), defensible space, building codes, forest thinning projects, health systems for smoke and creation of a Wildfire Programs Advisory Council in the Governor’s Office.

On the issue of land use, the bill requires DLCD to produce a legislative report including updates and recommendations to the statewide planning program, local comprehensive plans, and zoning codes to incorporate wildfire risk mapping and to minimize wildfire risks. The bill directs DLCD to consult with local governments and state agencies as necessary to complete this report. This report is due to the Legislature by October 1, 2022.

Additionally, the bill directs DLCD to support the Wildfire Programs Advisory Council at .15 full time equivalent of one staff person (FTE).

Status: Signed into law **Effective Date:** June 26, 2021

III. CONCLUSION

If you have further questions about farm and forest land use legislation contact Hilary Foote, Farm and Forest Specialist, at 503-934-0622, or Hilary.Foote@dlcd.oregon.gov. If you have further questions about urban issues contact Gordon Howard, Community Service Division Manager, at 503-934-0034, or Gordon.Howard@dlcd.oregon.gov.

If you have questions or comments about the report or other legislation, please contact DLCD Legislative Coordinator, Emma Land, at 503-779-9821, or Emma.Land@dlcd.oregon.gov.

Cc: Land Conservation and Development Commission, League of Oregon Cities, Association of Oregon Counties, Local Officials Advisory Committee, Citizen Involvement Advisory Committee, Oregon Chapter of American Planning Association