

URGENT: Property Owner Notification Required by State Law

TO: Planning Director
FROM: Department of Land Conservation and Development
SUBJECT: Property Owner Notification with Regard to New Proposed Rules

This Is To Notify You That The Land Conservation and Development Commission Has Proposed a New or Amended Administrative Rule, That, if Adopted, May Affect the Permissible Uses Of Properties in Your Jurisdiction.

On December 3, 2009, the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed new rules in new Division 43. Adoption of the rules may change the zoning classification of properties in your jurisdiction, or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

Rule number 660-043-100 is available for inspection at the Department of Land Conservation and Development located at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540. A copy of rule number 660-043-0100 is also available at no cost.

For additional information, contact the Department of Land Conservation and Development at (503) 373-0050, ext. 267.

State law under ORS 197.047^{*} requires that certain notices be mailed to local governments and property owners whenever changes to state laws or rules require a local government to rezone land in a manner that either

- (a) Changes the base zoning classification of property or
- (b) Amends a local zoning ordinance so as to limit or prohibit land uses previously allowed in the affected zone.

^{*} ORS 197.047 is a statutory codification of the law enacted by Ballot Measure 56, approved by Oregon voters in 1999 and revised by the legislature in 2003.

ORS 197.047 requires a two-step notification procedure: First, the Department of Land Conservation and Development (DLCD) must notify affected local governments about the change in state law or rule (see attached notice). Second, under ORS 197.047(4), a local government receiving the notice must mail an exact copy of the notice to each property owner in the jurisdiction whose property would be “rezoned” as a result of the changed law or rule. This cover letter accompanies the attached notice to the county concerning new proposed rules required by legislation adopted by the 2009 Legislative Assembly, and describes actions the county must take in response to the attached notice, as specified by ORS 197.047.

House Bill 3298, enacted by the 2009 legislature, declares the Metolius River basin to be an Area of Critical State Concern (the “Metolius ACSC”) and approves an accompanying management plan for the area. That management plan had been submitted to the legislature by the Land Conservation and Development Commission (LCDC) in accordance with ORS 197.405 – 197.410. The legislature approved the management plan under HB 3298 and directed the LCDC to adopt the plan, by administrative rule, with no changes, except for three specific changes. This notice is made with regard to rulemaking by LCDC as required by HB 3298 and associated legislation as described above.

Where will the management plan apply?

HB 3298 approves the Metolius Area of Critical State Concern (Metolius ACSC) management plan recommended by the Land Conservation and Development Commission (LCDC), in accordance with ORS 197.405 – 197.410. This area addressed by the management plan includes the Metolius drainage basin and an adjoining area (Areas 1 and 2 described in the management plan also referenced by the legislation) located in portions of Jefferson and Deschutes counties.

When do these laws and rules take effect?

HB 3298 took effect July 15, 2009. The applicable provisions of HB 3313 took effect on August 4, 2009 and HB 2228 took effect on June 29, 2009. The new rules proposed for approval by LCDC in a new Division 43, will take effect upon filing with the Secretary of State’s office, following adoption by LCDC.

Which local governments are affected?

The management plan which is the subject of the rule, affects the portions of Jefferson and Deschutes counties that include the legislatively declared Metolius Area of Critical State Concern.

When must notice be mailed to Property Owners?

The county must mail property owner notices not later than 30 days after it receives this notice from DLCD.

What must be mailed to the property owners whose properties will be “rezoned”?

The county must mail the attached notices to the appropriate property owners.

What uses are prohibited in the Metolius Area of Critical State Concern and its management plan?

- A new destination resort, as defined by Statewide Planning Goal 8 or ORS 197.435 to 197.467

- A new golf course.
- Certain new residential, commercial, industrial or other new uses, including dwelling units in excess of the number stated in the legislation, or that cause an average annual consumptive use of water in excess of the amount stated in the legislation, depending whether the land is in Area 1 or Area 2 of the management plan referenced by the legislation.

Will the State pay for mailing notices to property owners?

Yes. The law calls for DLCD to reimburse the local government for all usual and reasonable costs of providing notice required under ORS 197.047.

How does a local government get reimbursed?

Counties should use the reimbursement claim form provided in this packet. The county must file all claims for reimbursement within 30 days of incurring the costs. Send the reimbursement form, along with a copy of the notice sent to property owners and a detailed invoice for the costs of the mailing, to:

Gail Churchill, DLCD
635 Capitol Street NE, Ste 150
Salem, OR 97301-2540.