

URGENT: BALLOT MEASURE 56 NOTICE

TO: Planning Director
FROM: Department of Land Conservation and Development
SUBJECT: NOTICE ABOUT NEW STATE LAWS

The 1998 law commonly known as Ballot Measure 56 (now ORS 197.047) requires a two-step notification whenever there's a change in state planning laws or rules that limits or prohibits otherwise permissible uses. First, the Department of Land Conservation and Development (DLCD) has to notify every local government about the change. Second, ORS 197.047(4) requires the local government to mail an exact copy of DLCD's notice to every landowner whose property would be "rezoned" as a result of that change.

This is our notice to you about the new legislation adopted by the 2001 Legislative Assembly regarding certain uses allowed on agricultural lands zoned for Exclusive Farm Use (EFU) under ORS Chapter 215. After you read them, you must decide whether your local government is required to mail **one** of the enclosed notices about these laws to any landowners and, if so, which landowners.

Where will these new laws apply?

These new laws only apply to lands zoned for Exclusive Farm Use (EFU) under ORS Chapter 215. Enclosed are two notices from which to choose. Only mail the one that applies to your jurisdiction. Both notices ('A' and 'B') refer to the new EFU laws requiring notice under Measure 56 that apply to such lands statewide. However, Notice 'A' (blue copy) also refers to SB 928 which covers guest ranches **only allowed in eastern Oregon as defined in ORS 321.405**. Notice 'B' (green copy) does not refer to SB 928 and thus can be used instead of Notice 'A' for all applicable jurisdictions not in eastern Oregon.

When will these new laws take effect?

Except for Senate Bill 212, these laws will take effect on January 1, 2002. Senate Bill 212 was adopted with an emergency clause and took effect upon passage which was June 21, 2001.

Which local governments are affected by these new laws?

Since these new laws only apply to lands zoned for Exclusive Farm Use (EFU) under ORS Chapter 215 a notice does not need to be mailed to landowners in other zoning districts.

How does Ballot Measure 56 define "rezoned"?

The noticed laws are considered to have "rezoned" property based on the definition in Measure 56. For counties, it's found at ORS 215.503(9); for cities, it's found at ORS 227.186(9). Both statutes use the same definition, quoted below:

“(9) For purposes of this section, property is rezoned when the [county or city]:
(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.”

What should be mailed to the landowners who will be “rezoned”?

Just mail an exact copy of **just one** of the attached notices to each landowner in your jurisdiction’s qualified EFU zones (if any) under ORS Chapter 215.

When must the notices be mailed to landowners?

You must mail one of the notices before December 2, 2001. That will satisfy Measure 56’s requirement for the notice to be mailed “at least 30 days prior to the effective date of the subject rule or statute.” (ORS 197.047(4)). For Senate Bill 212, which is already effective, both notices cover this new law and will provide appropriate notice for this measure. No separate notice for SB 212 is needed.

Where should I direct questions about Measure 56?

Your local legal counsel should be your primary source of information on how Measure 56 affects your city or county. We can discuss Measure 56 with you in general terms, but we can’t tell you how to apply it or give you legal advice.

If landowners have questions, should we have them call DLCD?

For the most part, no. We can answer general inquiries about the new laws. But the most common question will be one we can’t answer: “How will this rule affect **my** land?” We don’t have the maps, ordinances, and local information necessary to answer that question. Also, we’re not allowed to interpret local ordinances for a landowner: that’s up to the local planners (even with the new laws).

Will the state pay for mailing notices to landowners?

Yes. The law calls for DLCD to “reimburse the local government for all usual and reasonable costs of providing notice required under subsection (4) of this section.” (ORS 197.047(5))

How does a local government get reimbursed?

Use the reimbursement claim form provided in this packet. Send a copy of that with the invoice for your usual and reasonable costs from the mailing to Teddy Leland, DLCD, 635 Capitol Street NE Suite 150, Salem OR 97301-2540. File all claims within 30 days of incurring the costs.

SUMMARY

- 1. Read new laws and enclosed notices about them.**
 - 2. Decide whether the new laws apply to any land in your jurisdiction.**
 - 3. Choose the notice that applies to your jurisdiction (if any).**
 - 4. Get names and addresses of landowners in EFU zones.**
 - 5. Mail each owner a copy of the selected notice before December 2, 2001.**
 - 6. Bill DLCD for usual and reasonable costs of mailing the notice.**
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