

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
(Irrigation)**

This Is to Notify You That the Land Conservation and Development Commission Will Consider A New or Amended Administrative Rule That May Affect the Permissible Uses of Properties in Your Jurisdiction.

On June 22-23, 2011, the Land Conservation and Development Commission will hold a public hearing regarding adoption of amended administrative rules that may change the zoning classification of properties in your jurisdiction, or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

The proposed amendments add a new section, (39) regarding irrigation reservoirs on farmland, to OAR 660-033-0130 (Agricultural Land), and amend OAR 660-033-0120 Table 1. A copy of the proposed rule amendments 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 the proposed rule amendments can also be mailed to you at no cost or can be accessed at: <http://www.oregon.gov/LCD/landnote.shtml>

For additional information, contact the Department of Land Conservation and Development at (503) 373-0050, ext. 329.

ORS 197.047(10)* requires that certain notices be mailed to local governments and property owners whenever changes to statutes or administrative rules limit or prohibit otherwise permissible land uses or cause a local government to rezone property. For purposes of ORS 197.047(10), property is “rezoned” when the proposed statute or administrative rule causes a local government to:

- (a) Change the base zoning classification of property; or
- (b) Adopt or amend 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 of the proposed change to the administrative rule. ORS 197.047(2). Second, a local government receiving the notice must mail a copy of the landowner notification, prepared by DLCD and attached this notice, to each property owner in the jurisdiction whose property would be “rezoned” as a result of the changed law or rule. ORS 197.047(4).

Summary of the proposed amendments.

The proposed amendments would amend OAR 660-033-0130 and 660-033-0120 Table 1 to clarify the process by which off-site irrigation reservoirs may be approved on agricultural land, and to limit the approval of certain other on-site or adjacent uses that could conflict with the operation of irrigation reservoirs.

Where will the land use restrictions apply?

The rule amendments would apply to agricultural lands (typically zoned EFU (Exclusive Farm Use) or Farm/Forest.

When do these laws and rules take effect?

These rules will be effective upon filing with the Secretary of State. Generally, the Department of Land Conservation and Development files rule amendments shortly after the Land Conservation and Development Commission adopts them.

Which local governments are affected?

All counties are affected. Cities with agriculturally zoned lands outside an urban growth boundary may also be affected.

When must notice be mailed to Property Owners?

The county or city must mail land owner notifications not later than Friday, May 6, 2011.

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

The county or city must mail the attached landowner notifications to the appropriate property owners.

What uses would be restricted in the amended rules?

The following uses would be restricted within a specified distance of the closest edge of irrigation reservoirs: any new destination resort, recreational use, commercial power generating facility or utility facility necessary for public service.

Where should I direct questions about Landowner Notification?

Your local legal counsel should be your primary source regarding statutory landowner notification requirements. DLCD can discuss the requirements with you in general terms, but can not tell you how to apply them or give you legal advice.

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

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

Will the State pay for mailing notices to property owners?

Yes. ORS 197.047(11) requires DLCD to reimburse the local government for all usual and reasonable costs of providing notice.

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:

Landowner Notification Specialist, DLCD
635 Capitol Street NE, Ste 150
Salem, OR 97301-2540.