



Bills for City Review, Action & Awareness

Cities are advised to review the summaries below and take action as needed to comply with new state law. The LOC's "[2021 Legislative Session Summary of Bills](#)" is now available online and provides comprehensive analysis of bills of interest to cities.

HOUSING & LAND USE

HB 2006: Emergency Shelter Siting

Effective May 12, 2021

HB 2006 requires local governments to approve an application for an emergency shelter regardless of state or local land use laws, if the application meets specific approval criteria outlined in the bill. HB 2006 removes state requirements for mailed notice, public hearing, or solicitation of public comment on an application, and there is no requirement for a city to make a decision within a particular period of time. Decisions made under HB 2006 may not be appealed to the Oregon Land Use Board of Appeals but may be appealed using the writ of review process provided under ORS 34.010–34.100. The bill does not specify a process for local jurisdictions to review and approve shelters. Jurisdictions may require applicants to demonstrate they meet the requirements of HB 2006 through a letter and other formal documentation, or they may choose to require applicants to submit an application. Cities should fully document their findings and justification for either approving or denying a shelter under HB 2006, and consult with legal counsel to ensure they are documenting findings appropriately to respond to potential appeal under ORS 34.010–34.100.

The siting authority in HB 2006 sunsets on July 1, 2022, but shelters approved under the bill may remain in operation after the sunset. Should a shelter cease to operate, the standard land use regulations would apply again. Shelter applicants must submit applications between May 12, 2021 and June 30, 2022 to qualify under HB 2006.

HB 2008: Religious-Owned Affordable Housing Siting and Property Tax Exemption

Effective September 25, 2022

HB 2008 requires local governments to approve the development of affordable housing on property not zoned for housing, without requiring a zoning change, on property owned by a religious organization if that property is located within an urban growth boundary, is not zoned for industrial use, and is contiguous to property zoned for residential use. For a property

contiguous to more than one residential property, the zoning of the property with the greatest density is applied to the new development. The bill allows local governments to apply certain restrictions or conditions of approval, provided that the conditions are clear, objective, and related to health, safety, habitability, or infrastructure.

HB 2008 also provides a property tax exemption for property owned or purchased by a religious organization that is used solely to provide affordable housing to individuals with a combined household income at or below 60% of an area's median income. The development must also be subject to an affordable housing covenant guaranteeing affordability for at least 60 years. The bill applies to property tax years beginning on or after July 1, 2021.

HB 2583: Occupancy Limitations

Effective January 1, 2022

HB 2583 prohibits local governments from imposing occupancy limits based on familial or non-familial relationships. The bill does not prevent landlords and other private entities from setting occupancy limits for their own units (within existing law; ORS 90.262). Because it only applies to limits based on relationships, the bill also does not prevent local governments from addressing overcrowding, enforcing fire and building codes, or imposing limits on short-term rental occupancy.

HB 2918: Surplus Land Reporting for Affordable Housing

Effective January 1, 2022

HB 2918 requires local governments to submit an inventory of their surplus real property to the Oregon Department of Land Conservation and Development (DLCD) on January 1 of each even-numbered year. The DLCD is charged with developing and maintaining an online database of this inventory, but is not responsible for verifying the accuracy of inventory uploaded by local governments. The bill includes a new, optional process that a city may use to sell property for the purpose of developing affordable housing as an alternative to ORS 221.725 or 2241.727. If a city chooses to use the alternative process, it is required to satisfy certain requirements established in the bill.

HB 2918 has not yet been signed by Governor Brown but would take effect upon signing.

HB 3040: SDC Study and Reporting Requirements

Effective July 19, 2021

HB 3040 directs and funds Oregon Housing and Community Services (OHCS) to conduct a comprehensive study of system development charges (SDCs) in consultation with the Oregon Department of Land Conservation and Development, the Department of Environmental Quality, the Department of Revenue, and the Oregon Business Development Department. The scope of the study must include the role of SDCs and their fee rates, the history and methodologies of SDCs, the impact of SDCs on overall housing costs, the costs and benefits of payment deferrals, and aspects of transparency related to fee rates. Local governments are required to comply with reasonable requests from OHCS, or from a third party conducting the study or any portion of the study, for information in furtherance of the study. OHCS is required to provide a preliminary report by December 31, 2021 and a final report by June 1, 2022.

The bill also requires any local jurisdiction that assesses SDCs and maintains a public website to include: the current SDC fee rates for each type of development; the SDC methodology used to determine fee rates; the list of capital improvement projects that will receive funding from SDC fee revenue; and contact information for a local official responsible for answering questions about SDCs. Jurisdictions without a public website must provide that information to the public free of charge upon request. Jurisdictions must meet the reporting requirements by January 1, 2022.

HB 3109: Childcare Facility Siting

Effective January 1, 2022

HB 3109 establishes childcare facilities as a permitted use in all commercial or industrial zoned areas, except in areas zoned for heavy industrial use. The bill prohibits local governments from enacting, enforcing, or imposing any land use regulations or fees that prohibit or place conditions on childcare facilities that are more restrictive than those imposed for other uses in the same zone. A local government may impose reasonable conditions upon the establishment or maintenance of a childcare facility in an area zoned for industrial uses, including but not limited to, siting restrictions for properties designated on the Oregon Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.

HB 3115: Local Camping Ordinances

Effective July 1, 2023

HB 3115 is the product of a workgroup involving the LOC and the Oregon Law Center (OLC), as well as individual cities and counties. The workgroup spent many hours crafting a concept that recognizes a key principle from the recent *Martin v. City of Boise* federal court decision. HB 3115 requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be "objectively

reasonable" based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities' ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community.

HB 3115 includes a delayed implementation date of July 1, 2023, to allow local governments time to review and update ordinances and support intentional community conversations. The LOC and the OLC will partner to provide guidance to cities ahead of the implementation deadline.

HB 3124: Campsite Removal Notice

Effective June 23, 2021

HB 3124 extends the requirement for law enforcement to provide written notice before removing homeless individuals from an established camping site from 24 hours to 72 hours. The bill also requires the written notice to be posted at all entrances to the site, and requires jurisdictions to store unclaimed personal property in a facility located in the same community as the camping site from which it was removed. HB 3124 preserves notice exceptions when there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site, or in the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.

HB 3261: Motel Conversion Siting

Effective May 1, 2021

HB 3261 requires local governments to allow the conversion of hotels and motels into emergency shelters or affordable housing, regardless of state or local land use laws, if the application meets specific approval criteria in the bill. Cities may still require the converted use to comply with building codes, occupancy limits, and reasonable siting and design standards as long as the standards do not, individually or cumulatively, prohibit the conversion through unreasonable costs or delay. HB 3126 went into effect on May 6, 2021 and applies to hotel and motel conversions or applications for conversions submitted on or after January 1, 2021.

SB 8: Affordable Housing Land Use Requirements

Effective January 1, 2022

SB 8 requires local governments to approve the development of certain affordable housing, and not require a zone change or conditional use permit, on land zoned to allow commercial uses, to allow religious assembly, or as public lands. Qualifying land may be owned by a public body or a religious nonprofit. The bill applies to property zoned to allow for industrial uses only if the property is publicly owned, adjacent to lands zoned for residential uses or schools, and not specifically designated for heavy industrial uses. These requirements do not apply to land that a local government determines lacks adequate infrastructure, or

(continued on page 3)

2021 LEGISLATIVE SESSION

on property that: contains a slope of 25% or greater; is within a 100-year floodplain; or is constrained by state land use regulations based on natural disasters and hazards or natural resources. Local governments may still impose development requirements based on siting and design standards and building permits.

SB 8 also includes a statewide density bonus for affordable housing in areas zoned for residential use. A local government may reduce the density or height of the density as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Finally, the bill broadens the ability of applicants developing affordable housing to obtain attorney fees in prevailing appeals before the Oregon Land Use Board of Appeals.

SB 458: Middle Housing Land Division

Effective January 1, 2022

SB 458 requires local governments to approve divisions of real property for new middle housing development on lots and parcels subject to the middle housing regulations established under HB 2001 (2019). SB 458 establishes utilities and land use conditions under which local governments must approve divisions of real property for new middle housing development and provides an expedited approval timeline for qualifying applications. The bill also establishes additional conditions cities and counties may impose during review and approval of middle housing land division plans.

PROPERTY TAX

HB 2456: Tax Reviser's Bill

Effective September 25, 2021

This annual bill makes corrections to and updates tax statutes. The bill allows the governing body of a local government to select the definition of "low income" from an expanded definition for purposes of certain rental property tax exemptions. HB 2456 also allows cities to extend the deadline for completion of construction for homes under the single-unit affordable housing exemption. Cities may need to update ordinances or resolutions, depending on their specific language. Cities will need to review and update any program materials available on the internet or published by their offices.

SB 141: Vertical Housing Exemption Changes

Effective September 25, 2021

SB 141 makes the percentage of partial property tax exemption for property of vertical housing development projects proportional to the allocation of floor area to residential housing or low-income residential housing, without rounding up or down. The bill is unclear on whether cities would be required to recalculate the exemption percentage for existing projects. The exemption percentage is calculated at the time of application,

and the bill does not require reapplication for existing projects, but the calculation changes are applicable to the 2021-22 tax year. Cities may need to update ordinances or resolutions, depending on their specific language. Cities will need to review and update any program materials available on the internet or published by their offices.

See also **HB 2008** under **Housing and Land Use** section.

BUILDING CODES

SB 866: Third-Party Building Official

Effective September 25, 2021

SB 866 provides cities which had a third-party building official as of 2018 with the opportunity to keep their program with some additional administrative oversight. The administrative steps will include: a designated city employee for oversight; added education requirements for the city designee; and increased transparency for budget/revenue related to the fee structure associated with the city's building permitting program. Cities that wish to continue using a third-party building official must submit an updated operating plan to the director of the Oregon Department of Consumer and Business Services which outlines how the city will comply with SB 866.

HB 2180: EV Infrastructure New Construction

Effective July 1, 2022

This bill amends state building codes to require certain new construction to include electric vehicle (EV) capacity. This construction is largely focused on multi-family housing and allows a city to adopt code requirements above the statewide base code for EV capacity.

PUBLIC CONTRACTS

HB 3082: Competitive Bid Price

Effective January 1, 2022

HB 3032 raises the contract price at which public improvement contract solicitations are exempt from competitive bidding requirements from \$5,000 to \$10,000.

HB 2682: Equipment Leasing

Effective September 25, 2021

Requires a person who rents a utility vehicle to a contracting agency to provide records that describe in detail results of the most recent inspection that person performed, or had performed, on the vehicle's traction, structure, power train, control components and related parts and equipment in compliance with specified rules, regulations or standards.

SB 493: Prevailing Wage

Effective January 1, 2022

Establishes the most recent collective bargaining agreement as a baseline for establishing prevailing wages for public contracts. If more than one collective bargaining agreement for a particular trade or occupation exists in a locality, the highest rate of wage among the agreements establishes the prevailing wage for public contracts. If there is no collective bargaining agreement for a particular trade or occupation in a locality, the commissioner shall have an independent wage survey in the locality conducted and then determine the prevailing wage.

SB 420: Community Benefit Contracts

Effective September 25, 2021

Allows a contracting agency or local contract review board to enact or adopt, as appropriate, ordinance, resolution, rule, regulation or other legislative or administrative measure to designate certain public improvement contracts as community benefit contracts.

SOLID WASTE

HB 2395: Statewide Bag Ban Definitional Change

Effective May 17, 2021

In 2019, HB 2509 passed and created a statewide policy on single-use bags for restaurants and retail establishments and requires a minimum fee of no less than 5 cents for each “recycled paper checkout bag” provided at retail establishments, including grocery stores.

HB 2395 expanded the definition of “recycled paper checkout bag” to include non-wood renewable fiber and a combination of post-consumer recycled fiber and non-wood renewable fiber, along with post-consumer recycled fiber. Local ordinances, charter provisions and resolutions will need to be reviewed to determine consistency with the expanded definitions established in the bill.

SB 582: Recycling Modernization

Effective January 1, 2022

Modernizes the Oregon recycling system by establishing a producer responsibility model and requires certain producers of “covered products” to financially contribute to (through annual fees) and participate in an approved producer responsibility organization (PRO). Funds collected through the PRO will be made available to local governments for eligible costs. Compensation to local governments can occur either in advance or as a reimbursement. The bill authorizes the Oregon Environmental Quality Commission to adopt a uniform statewide list of materials that are suitable for recycling collection. Previously, the list of recyclable materials varied locally, resulting in ongoing consumer confusion, inequities and recycling contamination.

SB 582 prohibits commingled recyclables collected under the Opportunity to Recycle Act from being delivered to commingled processing facilities unless such facilities meet performance

standards and specified equity considerations. Certain equity provisions will not be operative until January 1, 2027. The Oregon Recycling System Advisory Council (ORSAC) is created under this bill. ORSAC will make recommendations to both the Oregon Department of Environmental Quality (DEQ) and the PROs on a variety of topics, and submit a report to the Legislature every two years. SB 582 requires the DEQ and PROs to respond to written recommendations from the ORSAC.

Local governments are required to:

- Provide multifamily properties with collection of materials on the uniform statewide list, ensure adequate space and container placement for multifamily properties, and demonstrate a plan for ensuring such access for new construction and significant remodels, if they provide the opportunity to recycle. An eligible cost for PRO funds includes the costs of upgrading or establishing recycling at multifamily facilities.
- Utilize educational resources. The bill requires PROs to develop and make available to local governments culturally responsive educational resources to promote the uniform statewide recycling list. Local governments are required to utilize these resources.
- Ensure that newly purchased roll-carts, bins and containers contain at least 10% verified post-consumer content by January 1, 2026.
- Identify to the department the local government’s service providers that are authorized to receive funding or reimbursement directly.
- Report to the producer responsibility organization when the expansion or improvements have been fully implemented, or the status of implementation annually before expansion and improvement is fully implemented if they have received funds for such expansion.

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE FUNDING

HB 5006: Christmas Tree Bill

Effective June 30, 2021

This session’s Christmas Tree Bill includes appropriations that will be of significant benefit to cities across Oregon. Details are available in this [budget report](#), and cities can search for their city name by using CTRL+F or see below for specific page numbers from that report. The following items are by no means a complete list of the investments found in HB 5006:

- \$173 million in limitation for the Oregon Department of Administrative Services (DAS) to distribute lottery bond proceeds for projects outlined in SB 5534 (see page 23 for a list of projects);
- \$240 million in American Rescue Plan Act (ARPA) grants by state legislative districts (see pages 26-38 for a list of projects). DAS has not yet completed a review of the list of projects for

(continued on page 5)

2021 LEGISLATIVE SESSION

ARPA requirements, so we do not expect this money until the fall of 2021 at the earliest. However, there will be grant agreements up front and reporting on the back end;

- More than \$5 million in financial assistance for planning and other needs in communities affected by the 2020 wildfires (page 43); and
- Almost \$276 million for drinking water, storm water, and sanitary sewer projects (see pages 43 to 45 for list of projects).

In addition to the above investments to specific cities, there will be resources available to communities across Oregon, with details forthcoming as various agencies stand up their programs. These include: \$120 million in (ARPA) funds for deposit in the Broadband Fund (pages 24 and 47); \$50 million in general funds dedicated to the Special Public Works Fund in addition to the \$50 million in lottery bond revenues from SB 5534 (page 45); \$410 million in Article XI-Q bond proceeds for the Housing and Community Services Department to develop affordable housing units and supportive housing units for Oregonians who have experienced chronic homelessness (page 49); and \$100.4 million from the general fund for construction, rebuilding, and financing initiatives for wildfire survivors (page 50).

HB 2343: Enterprise Zone COVID Employment Waiver

Effective September 25, 2021

Allows an enterprise zone sponsor to adopt a resolution relaxing enterprise zone employment requirements otherwise imposed on authorized business firms for either or both of property tax years beginning on July 1, 2021, and July 1, 2022 if the company reduced employment due to the COVID-19 pandemic. Cities that are zone sponsors and want to use this option for the 2021-22 tax year will need to pass a resolution by September 25, 2021. The resolution may either suspend (see Section 2; company pays tax but is not disqualified and receives an additional year of exemption at the end of program) or waive (see Section 3; company does not pay tax) the requirements. The LOC will work with the Oregon Economic Development Association on guidance for enterprise zone sponsors.

FINANCE

HB 2966: Commercial Tenant Grace Period Extension

Effective June 7, 2021

Extends grace period for repayment of nonresidential rent between April 1, 2020, and September 30, 2020, until September 30, 2021, for certain tenants. Cities acting as a commercial landlord will need to honor the new grace period for repayments.

TRANSPORTATION

HB 2165: Removing Sunset on DEQ EV Rebate Program

Effective January 1, 2022

Accelerates the timeline for public agencies to transition to an electric vehicle (EV) fleet for light vehicles. This is an omnibus package with several other elements of EV incentives.

HB 3055: ODOT Omnibus Transportation Bill

Effective September 25, 2021

This bill provides direction on several policy decisions that cover public contracting associated with transportation projects, clarity for local authority to establish fuel taxes and flexibility for use of transportation revenues generated by the transportation investment package from the 2017 session—HB 2017. In addition, the legislation modifies definitions related to tolling for the purpose of funding projects.

WILDFIRE

SB 762: Wildfire Policy

Effective July 1, 2021

This is an omnibus wildfire policy package and includes a series of impacts on local governments. The first step in this process will be a mapping process that the Oregon Department of Forestry and Oregon State University will complete. Once this map is complete cities will likely want to consider changes to comprehensive plans and evaluate options for future growth and development. Cities will have the ability to also go beyond statewide standards that address defensible space. Detailed impacts for cities will come once several advisory committees complete their work in 2021-2022.

SB 405: Nonconforming Use

Effective May 15, 2021

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. The bill would also, until September 30, 2025, require cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires.

POLICE REFORM AND PUBLIC SAFETY

HB 2162: Police Accreditation

Effective September 25, 2021

Requires police agencies with 35 officers or more to become accredited through an accrediting body determined by the state. The legislation also requires the Oregon Department of Public Safety Standards & Training (DPSST) to develop an equity training program for police and other certified public safety professionals. The bill takes effect the 91st day after session, at which point the agency will begin work on their training curriculum. Police agencies with 100 or more officers must become accredited by July 1, 2025 and agencies with 35-99 officers must meet this standard by July 1, 2026.

HB 2513: CPR Training

Effective January 1, 2022

Requires all certified police officers and reserve officers to receive three hours of CPR and airway maintenance training, and thereafter receive at least two hours of such training in each maintenance training period. Additionally, when an officer encounters a restrained person suffering a respiratory or cardiac compromise, the officer is now required to immediately request emergency medical service if it is tactically feasible to make such a request and the officer has access to communications. This change may require cities to review and amend their police department's operating procedures.

HB 2932: Police Use of Force Reporting

Effective January 1, 2022

Requires all police agencies to participate in the FBI use of force database.

HB 2936: Racism Prevention in Policing

Effective January 1, 2022

Cities that employ police or reserve officers must adopt policies that set standards for the speech and expressions communicated by their officers, both in and outside the scope of their employment, to recognize the unique position law enforcement officers have in a community. Given the implications on officers' constitutional rights to free speech and expression, cities are encouraged to develop these policies in concert with their respective legal advisors. The bill also directs the DPSST to develop a background vetting checklist which agencies must meet. That background check standards in the bill reflect current minimum best practice and should have a minimal impact.

HB 3145: Police Discipline Reporting

Effective January 1, 2022

This bill requires police agencies to report misconduct findings that result in economic discipline to DPSST.

HB 3355: Crowd Control Identification

Effective January 1, 2022

HB 3355 requires police officers on duty and working crowd control in cities with a population of 60,000 or more to have the first initial and last name or unique identifying number legible on their front and back when engaged in crowd control activities. The requirement would apply to a smaller city that provides officers to a larger city that meets the population threshold through mutual aid.

GENERAL GOVERNMENT

HB 2026: Eastern Oregon Public Employee Hiring Restrictions

Effective June 26, 2021

Requires public employers to give preferences to residents of Malheur County for civil service positions if the majority of the work for the open position will be performed within Eastern Oregon Border Economic Development Region.

HB 2560: Electronic Participation in Public Meetings

Effective January 1, 2022

This legislation requires, to the extent reasonable, the governing body of a public body to allow for virtual or electronic participation in public meetings. Legislative history on the bill indicates that cities should also evaluate their obligations under the Americans with Disabilities Act when electing to not allow for virtual or electronic participation in public meetings. ■