

Enrolled
Senate Bill 1024

Sponsored by Senator JOHNSON (Pre-session filed.)

CHAPTER

AN ACT

Relating to highway access; creating new provisions; amending ORS 374.310; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 374.310 is amended to read:

374.310. (1) The Department of Transportation with respect to state highways and the county court or board of county commissioners with respect to county roads shall adopt reasonable rules and regulations and may issue permits, not inconsistent with law, for the use of the rights of way of such highways and roads for the purposes described in ORS 374.305. However, the department may not issue a permit for the construction of any approach road at a location where no rights of access exist between the highway and abutting real property.

(2) Such rules and regulations and such permits shall include such provisions, terms and conditions as in the judgment of the granting authority may be in the best interest of the public for the protection of the highway or road and the traveling public and may include, but need not be limited to:

(a) Provisions for construction of culverts under approaches, requirements as to depth of fills over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic channelization as may be deemed necessary.

(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for payment by the applicant of the costs of any of the foregoing.

(c) With respect to private road crossings, the granting authority may also require the applicant to furnish public liability and property damage insurance in a sum fixed by the granting authority, which insurance shall also indemnify the members, officers, employees and agents of such authority from any claim that might arise on account of the granting of the permit and the crossing of the highway or road by vehicles operating under the permit; and the granting authority may also require the applicant to furnish indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the granting authority, indemnifying such authority for any damage to the highways or roads that may be caused by the use of the crossing.

(3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny any property adjoining the road or highway reasonable access. In determining what is reasonable, the department or county court or board of county commissioners shall apply the following criteria:

(a) The access must be sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan.

(b) The type, number, size and location of approaches must be adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for the property.

(4)(a) As used in this subsection:

(A) "Peak hour" means the hour during which the highest volume of traffic enters and exits the property during a typical week.

(B) "Private approach" means an approach that serves one or more properties and that is not a public approach as defined in this subsection.

(C) "Public approach" means an existing or planned city street or county road connection that provides vehicular access to and from a highway.

(D) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property.

(b) An approach permit is not required for a public approach.

(c) A new approach permit for a change of use of an approach is required for a private approach if:

(A)(i) The number of peak hour trips increases by 50 trips or more from that of the property's prior use; or

(ii) The number of trips on a typical day increases by 500 trips or more from that of the property's prior use; and

(B) The increase in subparagraph (A)(i) or (ii) of this paragraph represents a 20 percent or greater increase in the number of trips on a typical day and the number of peak hour trips from that of the property's prior use.

(d) A new approach permit for a change of use of an approach is required for a private approach if the daily use of a private approach increases by 10 or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater.

(5) The department shall establish access management rules, mitigation measures and spacing and mobility standards that are less stringent for highway segments where the annual average amount of daily traffic is 5,000 motor vehicles or fewer, than for highway segments where the annual average amount of daily traffic is greater than 5,000 motor vehicles.

[(4)] (6) The department may not charge any fee for issuance of a permit under this section for construction of an approach road.

SECTION 2. (1) The Department of Transportation, in cooperation with stakeholders, shall develop proposed legislation to codify, clarify and bring consistency to issuance of access permits based on objective standards.

(2) The department shall provide a report to the Legislative Assembly prior to January 2011. The report must include a description of the proposed legislation developed under subsection (1) of this section.

SECTION 3. The amendments to ORS 374.310 by section 1 of this 2010 Act apply to existing approaches and to approaches permitted on or after the effective date of this 2010 Act.

SECTION 4. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by Senate February 15, 2010

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Secretary of Senate

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President of Senate

Passed by House February 22, 2010

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Speaker of House

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State