

## SENATE AMENDMENTS TO SENATE BILL 264

By COMMITTEE ON BUSINESS, TRANSPORTATION AND ECONOMIC DEVELOPMENT

April 22

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and line 3 and insert  
2 “366.290, 373.015, 374.305, 374.310, 374.312, 374.315, 374.330, 374.335, 374.990 and 811.430 and section  
3 2, chapter 31, Oregon Laws 2010; repealing section 2, chapter 31, Oregon Laws 2010; and declaring  
4 an emergency.”.

5 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

6 **“SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 374.305 to**  
7 **374.330.**

8 **“SECTION 2. Definitions. As used in ORS 374.305 to 374.330:**

9 **“(1) ‘Approach road’ includes a private road that crosses a state highway or a county**  
10 **road.**

11 **“(2) ‘Channelization’ means the roadway lane configuration necessary to safely accom-**  
12 **modate turning movements from the highway to an intersecting approach.**

13 **“(3) ‘District highway’ means a state highway that has been classified by the Oregon**  
14 **Transportation Commission as a district highway.**

15 **“(4) ‘Expressway’ means a state highway that has been designated by the commission as**  
16 **an expressway.**

17 **“(5) ‘Interstate highway’ means a state highway that has been classified by the commis-**  
18 **sion as an interstate highway.**

19 **“(6) ‘Move in the direction of’ means a change in an approach to a property abutting the**  
20 **highway that would bring a property closer to conformance with existing highway standards.**

21 **“(7) ‘Peak hour’ means the hour during which the highest volume of traffic enters and**  
22 **exits the property during a typical week.**

23 **“(8) ‘Private approach’ means an approach that serves one or more properties and that**  
24 **is not a public approach.**

25 **“(9) ‘Private road crossing’ means a privately owned road designed for use by trucks that**  
26 **are prohibited by law from using state highways, county roads or other public highways.**

27 **“(10) ‘Public approach’ means an existing or planned city street or county road con-**  
28 **nection that provides vehicular access to and from a highway.**

29 **“(11) ‘Regional highway’ means a state highway that has been classified by the commis-**  
30 **sion as an regional highway.**

31 **“(12) ‘Sight distance’ means a length of highway that a driver can see with an acceptable**  
32 **level of clarity.**

33 **“(13) ‘State highway’ means a highway that is under the jurisdiction of the Department**  
34 **of Transportation.**

35 **“(14) ‘Statewide highway’ means a state highway that has been classified by the com-**

1 mission as a statewide highway.

2 “(15) ‘Trip’ means a one-way vehicular movement that consists of a motor vehicle en-  
3 tering or exiting a property.

4 “(16) ‘Unincorporated community’ means a settlement that is not incorporated as a city  
5 and that lies outside the urban growth boundary of any city.

6 “**SECTION 3.** ORS 374.305 is amended to read:

7 “374.305. (1) [No] A person [, firm or corporation] may **not** place, build or construct on the right  
8 of way of any state highway or county road, any approach road, structure, pipeline, ditch, cable or  
9 wire, or any other facility, thing or appurtenance, or substantially alter any such facility, thing or  
10 appurtenance or change the manner of using any such approach road without first obtaining written  
11 permission from the Department of Transportation with respect to state highways or the county  
12 court or board of county commissioners with respect to county roads.

13 “(2) After written notice of not less than 10 days to the permittee and an opportunity for a  
14 hearing, the department with respect to crossings over a state highway and the county court or  
15 board of county commissioners with respect to crossings over a county road may abolish any  
16 crossing at grade by a private road or may alter or change any private road crossing when the  
17 public safety, public convenience and the general welfare require the alteration or change.

18 “[3] *As used in ORS 374.305 to 374.330:*]

19 “[a] *‘Approach road’ includes a private road that crosses a state highway or a county road.*]

20 “[b] *‘Private road crossing’ means a privately owned road designed for use by trucks which are*  
21 *prohibited by law from using state highways, county roads or other public highways.*]

22 “**SECTION 4.** ORS 374.310, as amended by section 1, chapter 31, Oregon Laws 2010, is amended  
23 to read:

24 “374.310. (1) The Department of Transportation [*with respect to state highways and the county*  
25 *court or board of county commissioners with respect to county roads*] shall adopt reasonable rules [*and*  
26 *regulations*] and may issue permits, not inconsistent with law, for the use of the rights of way of  
27 [*such*] state highways [*and roads*] for the purposes described in ORS 374.305. However, the de-  
28 partment may not issue a permit for the construction of any approach road at a location where no  
29 rights of access exist between the highway and abutting real property.

30 “(2) [*Such*] **The** rules [*and regulations and such*] **and** permits shall include [*such*] provisions,  
31 terms and conditions [*as*] **that** in the judgment of the [*granting authority may be*] **department are**  
32 in the best interest of the public for the protection of the highway [*or road*] and the traveling public  
33 and may include, but need not be limited to:

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

37 “(b) With respect to private road crossings, additional provisions for the angle of intersection,  
38 crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing  
39 signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for  
40 payment by the applicant of **any of** the costs of [*any of the foregoing*] **complying with the pro-**  
41 **visions.**

42 “(c) With respect to private road crossings, the [*granting authority*] **department** may also re-  
43 quire the applicant to furnish:

44 “(A) Public liability and property damage insurance in a sum fixed by the [*granting authority,*  
45 *which insurance shall also indemnify*] **department that indemnifies** the [*members,*] officers, em-

1 ployees and agents of [*such authority*] **the department** from any claim that might arise on account  
2 of the granting of the permit and the crossing of the highway [*or road*] by vehicles operating under  
3 the permit; and [*the granting authority may also require the applicant to furnish*]

4 “(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an in-  
5 sured institution as defined in ORS 706.008 in a sum fixed by the [*granting authority, indemnifying*  
6 *such authority*] **department that indemnifies the department** for any damage to the highways [*or*  
7 *roads*] that may be caused by the use of the crossing.

8 “(3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny  
9 any property [*adjoining*] **abutting** the [*road or*] highway reasonable access. In determining what is  
10 reasonable, the department [*or county court or board of county commissioners*] shall apply the fol-  
11 lowing criteria:

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

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

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

18 “(A) ‘Peak hour’ means the hour during which the highest volume of traffic enters and exits the  
19 property during a typical week.

20 “(B) ‘Private approach’ means an approach that serves one or more properties and that is not  
21 a public approach [*as defined in this subsection*].

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

24 “(D) ‘Trip’ means a one-way vehicular movement that consists of a motor vehicle entering or  
25 exiting a property.

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

27 “(c) A new approach permit for a change of use of an approach is required for a private ap-  
28 proach if:

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

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

33 “(B) The increase in subparagraph (A)(i) or (ii) of this paragraph represents a 20 percent or  
34 greater increase in the number of [*trips on a typical day and the number of*] peak hour trips **or the**  
35 **number of trips on a typical day** from that of the property’s prior use.

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

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

43 “(6) The department may not charge any fee for issuance of a permit under this section for  
44 construction of an approach road.

45 “**SECTION 5.** ORS 374.310, as amended by section 1, chapter 31, Oregon Laws 2010, and section

1 4 of this 2011 Act, is amended to read:

2 “374.310. (1) The Department of Transportation shall adopt [*reasonable rules and may issue per-*  
3 *mits, not inconsistent with law, for the use of the rights of way of state highways for the purposes de-*  
4 *scribed in ORS 374.305.*] **rules consistent with this section and ORS 374.312 to govern the**  
5 **process of application for issuance of permits for approach roads to state highways by own-**  
6 **ers of property abutting highways.** However, the department may not issue a permit for the con-  
7 struction of any approach road at a location where no rights of access exist between the highway  
8 and abutting real property.

9 “(2) The rules and permits shall include provisions, terms and conditions that in the judgment  
10 of the department are in the best interest of the public for the protection of the highway and the  
11 traveling public and may include, but need not be limited to:

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

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

19 “(c) With respect to private road crossings, the department may also require the applicant to  
20 furnish:

21 “(A) Public liability and property damage insurance in a sum fixed by the department that  
22 indemnifies the officers, employees and agents of the department from any claim that might arise  
23 on account of the granting of the permit and the crossing of the highway by vehicles operating un-  
24 der the permit; and

25 “(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an in-  
26 sured institution as defined in ORS 706.008 in a sum fixed by the department that indemnifies the  
27 department for any damage to the highways that may be caused by the use of the crossing.

28 “(3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny  
29 any property abutting the highway reasonable access. In determining what is reasonable, the de-  
30 partment shall apply the following criteria:

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

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

36 “[*(4)(a) As used in this subsection:*]

37 “[*(A) ‘Peak hour’ means the hour during which the highest volume of traffic enters and exits the*  
38 *property during a typical week.*]

39 “[*(B) ‘Private approach’ means an approach that serves one or more properties and that is not a*  
40 *public approach.*]

41 “[*(C) ‘Public approach’ means an existing or planned city street or county road connection that*  
42 *provides vehicular access to and from a highway.*]

43 “[*(D) ‘Trip’ means a one-way vehicular movement that consists of a motor vehicle entering or ex-*  
44 *iting a property.*]

45 “[*(b) An approach permit is not required for a public approach.*]

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

3       “(A)(i) The number of peak hour trips increases by 50 trips or more from that of the property’s  
4 prior use; or]

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

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

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

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

17       “(4) **The department’s determination that the access is sufficient to allow the authorized**  
18 **uses for the property identified in the acknowledged local comprehensive plan under sub-**  
19 **section (3)(a) of this section, or that the type, number, size and location of approaches is**  
20 **adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the**  
21 **property, based on the planned uses for the property, under subsection (3)(b) of this section,**  
22 **shall be based on the economic development needs of the property abutting the highway for**  
23 **its authorized and planned uses, subject only to consideration of safety and highway oper-**  
24 **ations. The department shall have the burden of establishing safety and highway operations**  
25 **concerns.**

26       “(5) **An approach permit is not required for a public approach.**

27       “(6) The department may not charge any fee for issuance of a permit under this section for  
28 construction of an approach road.

29       “**SECTION 6. The amendments to ORS 374.310 by section 5 of this 2011 Act become op-**  
30 **erative January 1, 2012.**

31       “**SECTION 7. Section 8 of this 2011 Act is added to and made a part of ORS 374.305 to**  
32 **374.325.**

33       “**SECTION 8. Local rules and regulations; permits. (1) The county court or board of**  
34 **county commissioners shall adopt reasonable rules and regulations and may issue permits,**  
35 **not inconsistent with law, for the use of the rights of way of county roads for the purposes**  
36 **described in ORS 374.305.**

37       “(2) **Rules and regulations adopted and permits issued under subsection (1) of this section**  
38 **shall include provisions, terms and conditions that in the judgment of the granting authority**  
39 **are in the best interest of the public for the protection of the road and the traveling public**  
40 **and may include, but need not be limited to:**

41       “(a) **Provisions for construction of culverts under approaches, requirements as to depth**  
42 **of fills over culverts and requirements for drainage facilities, curbs, islands and other facil-**  
43 **ities for traffic channelization as may be deemed necessary.**

44       “(b) **With respect to private road crossings, additional provisions for the angle of inter-**  
45 **section, crossing at grade or other than grade, sight distances, safety measures including**

1 **flaggers, crossing signs and signals, reinforcement for protection of the road, maintenance**  
2 **of the crossing and for payment by the applicant of any of the costs of complying with the**  
3 **provisions.**

4 **“(c) With respect to private road crossings, the granting authority may also require the**  
5 **applicant to furnish:**

6 **“(A) Public liability and property damage insurance in a sum fixed by the granting au-**  
7 **thority that indemnifies the members, officers, employees and agents of the granting au-**  
8 **thority from any claim that might arise on account of the granting of the permit and the**  
9 **crossing of the road by vehicles operating under the permit; and**

10 **“(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by**  
11 **an insured institution as defined in ORS 706.008 in a sum fixed by the granting authority,**  
12 **indemnifying the granting authority for any damage to the roads that may be caused by the**  
13 **use of the crossing.**

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

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

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

22 **“SECTION 9. ORS 374.315 is amended to read:**

23 **“374.315. All construction under the permits issued under ORS 374.310 and section 8 of this**  
24 **2011 Act shall be under the supervision of the granting authority and at the expense of the appli-**  
25 **cant. After completion of the construction of the particular approach road, facility, thing or**  
26 **appurtenance, they shall be maintained at the expense of the applicant and in accordance with the**  
27 **rules and regulations adopted pursuant to ORS 374.310 and section 8 of this 2011 Act.**

28 **“SECTION 10. ORS 374.330 is amended to read:**

29 **“374.330. (1) [Nothing in] ORS 374.305, 374.310 and 374.325, as [such] those sections were**  
30 **amended by chapter 323, Oregon Laws 1957, [shall be deemed to] and section 8 of this 2011 Act**  
31 **do not affect any approach road, structure, pipeline, ditch, cable or wire, or other facility, thing or**  
32 **appurtenance lawfully placed or constructed upon the right of way of any highway prior to August**  
33 **20, 1957.**

34 **“(2)(a) [Nothing in] ORS 374.305 [or] and 374.310, as [such] those sections [are] were amended**  
35 **by chapter 497, Oregon Laws 1967, [shall be deemed to] and section 8 of this 2011 Act do not affect**  
36 **any approach road, structure, pipeline, ditch, cable or wire, or other facility, thing or appurtenance**  
37 **lawfully placed or constructed upon the right of way of any state highway or county road prior to**  
38 **September 13, 1967.**

39 **“(b) Except as provided in paragraph (a) of this subsection, private road crossings authorized**  
40 **by the Public Utility Commission under ORS 374.205 to 374.260 (1965 Replacement Part) are subject**  
41 **to ORS 374.305 to 374.330 after September 13, 1967.**

42 **“SECTION 11. ORS 374.335 is amended to read:**

43 **“374.335. Where any private road crosses or is crossed by a public highway the driving of a**  
44 **motor vehicle across the public highway or upon the public highway for a distance of not to exceed**  
45 **1,200 feet in the use of the private road [shall] is not [be] subject to ORS 811.450, 815.155, 815.160,**

1 815.170, 818.020, 818.060, 818.090, 818.110, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400 and ORS  
2 chapter 825, provided such vehicle or vehicle use is:

3 “(1) Subject to a permit issued pursuant to ORS 374.310 or **section 8 of this 2011 Act** or a  
4 person authorized by such permittee; or

5 “(2) A farm tractor or implement of husbandry.

6 “**SECTION 12.** ORS 374.990 is amended to read:

7 “374.990. In addition to the liability for expenses under ORS 374.307 and 374.320, violation of  
8 ORS 374.305 or of any rule or regulation adopted under ORS 374.310 or **section 8 of this 2011 Act**  
9 is a misdemeanor.

10 “**SECTION 13.** ORS 374.312 is amended to read:

11 “374.312. *[(1) The Department of Transportation shall adopt rules governing the process of appli-*  
12 *cation for and issuance of permits for approach roads to highways by owners of property abutting the*  
13 *highways. Rules adopted by the department shall include, but need not be limited to:]*

14 “*[(a) The time within which a final decision, including resolution of all internal appeals, to grant*  
15 *or deny a permit must be made. The time may not be longer than 120 days unless the applicant and*  
16 *the department agree to an extension.]*

17 “*[(b) Standards that will be used in making decisions as to whether to grant or deny a permit.*  
18 *Standards applicable to approach roads shall be based on a policy of using local road systems and*  
19 *state highways in a manner consistent with the local transportation system plan and the land uses*  
20 *permitted in the local comprehensive plan acknowledged under ORS chapter 197. In addition, the*  
21 *standards shall require consideration of safety and highway functionality.]*

22 “*[(c) Criteria for determining what constitutes reasonable access as specified in ORS 374.310 (3).]*

23 “*[(d) Procedures governing an appeal of denial of a permit, including but not necessarily limited*  
24 *to notice, guarantee of an impartial tribunal, burden of proof and admission and weight of evidence.]*

25 “*[(e) A rule that an engineer with relevant experience will review and respond to evidence from a*  
26 *qualified expert that is submitted by an applicant.]*

27 “*[(2) A permit decision for an approach road must be made on the basis of standards and criteria*  
28 *in effect on the date that the application was filed.]*

29 “*[(3) A permit decision for an approach road must be made on the record. The department shall*  
30 *adopt rules specifying the form of the record.]*

31 “**(1) It is the intent of the Legislative Assembly to develop a highway access management**  
32 **system based on objective standards that will balance the economic development objectives**  
33 **of properties abutting state highways with the transportation safety and access management**  
34 **objectives of state highways, in a manner consistent with local transportation system plans**  
35 **and the land uses permitted in the local comprehensive plans acknowledged under ORS**  
36 **chapter 197. The Department of Transportation shall comply with the legislative directives,**  
37 **objective standards and procedures established in this section for the governance of the**  
38 **process for application by and the issuance of approach permits to owners of property abut-**  
39 **ting the highway and shall adopt rules consistent with this section.**

40 “**(2) The department shall make its final decision, including resolution of all internal ap-**  
41 **peals, to grant or deny an approach permit within 120 days of the date the department deems**  
42 **an application for an approach permit complete, unless the applicant and the department**  
43 **agree to an extension.**

44 “**(3) The department shall make its decision to grant or deny an approach permit based**  
45 **on the provisions of this section, the spacing, channelization and sight distance standards**

1 described in section 17 of this 2011 Act or the standards and criteria in effect on the date  
2 that the application was filed.

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

5 “(a)(A)(i) The number of peak hour trips increases by 50 trips or more from that of the  
6 property’s prior use; or

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

9 “(B) The increase described in subparagraph (A)(i) or (ii) of this paragraph represents a  
10 20 percent or greater increase in the number of peak hour trips or the number of trips on  
11 a typical day from that of the property’s prior use;

12 “(b) The daily use of a private approach increases by 10 or more vehicles with a gross  
13 vehicle weight rating of 26,000 pounds or greater;

14 “(c) The department demonstrates that safety or operational problems related to the  
15 approach are occurring on a highway as provided in subsection (10)(g) of this section. Any  
16 required mitigation measures shall be limited to addressing the identified safety or opera-  
17 tional problems; or

18 “(d) The approach does not meet the stopping sight distance standards of this section,  
19 as measured in feet, of 10 times the speed limit established in ORS 811.111 or the designated  
20 speed posted under ORS 810.180 for the highway as measured in miles per hour, or 10 times  
21 the 85th percentile speed of the highway where the 85th percentile speed is higher or lower  
22 than the speed limit established in ORS 811.111 or the designated speed posted under ORS  
23 810.180. The permit holder may perform a study to determine if the 85th percentile speed is  
24 higher or lower than the speed limit established in ORS 811.111 or the designated speed  
25 posted under ORS 810.180. The sight distance measurement and the study to determine the  
26 85th percentile speed shall be performed according to published department procedures by  
27 or under the supervision of an engineer registered in Oregon.

28 “(5)(a) When a change of use of an approach permit is required under subsection (4) of  
29 this section, the department shall approve an application if the application proposes an ap-  
30 proach that moves in the direction of conforming with the spacing, channelization and sight  
31 distance standards described in section 17 of this 2011 Act, subject to consideration of safety  
32 and highway operations.

33 “(b) Whether the application moves in the direction of conforming with the spacing,  
34 channelization and sight distance standards described in section 17 of this 2011 Act, while  
35 not posing safety or highway operations concerns, shall be established by the department and  
36 the applicant using a collaborative process, as established by department by rule, that is  
37 made available to the applicant within 30 days of the date the department determines an  
38 application to be complete.

39 “(c) Applications that are deemed to be moving in the direction of conforming with the  
40 spacing, channelization and sight distance standards described in section 17 of this 2011 Act  
41 do not require separate deviations from those standards.

42 “(d) For the purposes of this subsection, an approach moves in the direction of con-  
43 forming with the spacing, channelization or sight distance standards described under section  
44 17 of this 2011 Act if one or more changes are made to the approach that include, but are  
45 not limited to:



1       “(A) Eliminating or combining existing approaches to the highway resulting in a net re-  
2       duction in the number of approaches to the highway.

3       “(B) Improving the distance between approaches.

4       “(C) Improving the sight distance between approaches.

5       “(D) Widening the existing driveways to accommodate truck turning radius require-  
6       ments.

7       “(E) Widening the existing driveways to accommodate additional exit lanes.

8       “(F) Narrowing the existing driveways to provide the appropriate number of entry and  
9       exit lanes as required for the property.

10       “(G) Developing a throat on the approach entrance to allow for more efficient movement  
11       of motorists from the highway.

12       “(6) The department shall approve applications that meet the spacing, channelization or  
13       sight distance standards described in section 17 of this 2011 Act subject only to consideration  
14       of safety and highway operations concerns as provided in subsection (10)(g) of this section  
15       and the traffic impact analysis requirements described in section 18 of this 2011 Act.

16       “(7) Applications that do not meet the spacing, channelization or sight distance standards  
17       described in section 17 of this 2011 Act may be approved with deviations from those stan-  
18       dards as follows:

19       “(a) A request for one or more deviations from the spacing, channelization or sight dis-  
20       tance standards described in section 17 of this 2011 Act may be included in an application for  
21       one or more private approaches that do not meet the standards.

22       “(b) Unless waived by the department, a request for a deviation must include a traffic  
23       impact analysis provided by the applicant that addresses a request for deviations from the  
24       spacing, channelization or sight distance standards described in section 17 of this 2011 Act  
25       for safety and highway operations.

26       “(c) A request for a deviation may be approved based upon a determination by the engi-  
27       neer assigned by the department to analyze the request for a deviation that the approach  
28       adequately addresses the safety and highway operations concerns identified by the depart-  
29       ment as provided in subsection (10)(g) of this section.

30       “(d) Where a speed study prepared by an applicant and agreed to by the department de-  
31       termines that the 85th percentile speed is lower than the current posted speed, the depart-  
32       ment may grant a deviation from sight distance standards based upon the lower speed  
33       determination.

34       “(8) If a property has a right of access and there is no means of access to the property  
35       other than the state highway, an approach that does not meet the spacing, channelization  
36       or sight distance standards described in section 17 of this 2011 Act does not need a deviation  
37       from the standards if the department and the applicant agree on a location of the approach  
38       that optimizes safety, highway operations and site design.

39       “(9) Except as otherwise provided in this section, the following procedures apply to all  
40       applications for an approach permit:

41       “(a) The department shall determine whether an application for an approach permit is  
42       complete within 30 days of receipt of the application.

43       “(b) The department shall approve an application, approve an application with conditions  
44       or deny an application:

45       “(A) Within 30 days of the date that the department determines the application to be

1 complete, for applications that meet spacing, channelization or sight distance standards de-  
2 scribed in section 17 of this 2011 Act; or

3 “(B) Within 60 days of the date that the department determines the application to be  
4 complete for all other types of applications.

5 “(c) The department may impose reasonable conditions to mitigate safety or highway  
6 operations concerns identified by the department in its review of the application, as provided  
7 in subsection (10)(g) of this section.

8 “(d) When the department proposes to deny an approach permit application or approve  
9 an application with conditions, the department shall notify the applicant of its intent and  
10 offer the applicant a collaborative process established by the department by rule.

11 “(e) If the offer of a collaborative process is declined, the department shall issue its de-  
12 cision in writing with sufficient specificity regarding any safety or highway operations con-  
13 cerns upon which the department’s decision is based to allow the applicant to respond.

14 “(f) The department’s decision shall advise the applicant of the applicant’s rights for  
15 dispute resolution processes to resolve issues relating to the department’s decision as set  
16 forth in section 14 of this 2011 Act.

17 “(10) The following directives apply to all applications for an approach permit:

18 “(a) All applications are required to meet sight distance standards described in section  
19 17 (6) of this 2011 Act except as otherwise provided in this section or unless a deviation is  
20 otherwise approved by the department.

21 “(b) Except for highways classified as interstate highways and highways designated as  
22 expressways by the Oregon Transportation Commission, the department may not use the  
23 presence of alternate access to a property abutting a highway as a basis for denying an ap-  
24 proach permit application, except in rural areas where the presence of alternative access is  
25 a consideration in determining whether to approve or deny a second or subsequent approach  
26 permit application.

27 “(c) The department may not impose nontraversable medians as a mitigation measure for  
28 approach permit applications unless the department first establishes that no other mitigation  
29 measures are effective or available under the circumstances.

30 “(d) Mobility standards, established by the department by rule, are not applicable to  
31 turning movements from private approaches during the department’s review of approach  
32 permit applications, except when the ratio of volume to capacity on the proposed private  
33 approach is 1.0 or greater.

34 “(e) The department may not require an applicant to submit a traffic impact analysis  
35 except as provided in section 18 of this 2011 Act.

36 “(f) The department shall utilize an engineer with relevant experience to review and re-  
37 spond to evidence from a qualified expert that is submitted by the applicant.

38 “(g) The department shall have the burden of proving any safety or highway operations  
39 concerns relied upon in the department’s decision to approve an application with conditions  
40 or deny an application. Safety or highway operations concerns that may be applied to the  
41 department’s permit decisions on applications submitted under this section are limited to one  
42 or more of the following unique safety and highway operations concerns:

43 “(A) Regular queuing on the highway that impedes turning movements associated with  
44 the proposed approach.

45 “(B) Offset approaches that may create the potential for overlapping left turn movements

1 or competing use of a center turn lane.

2 “(C) Insufficient distance for weave movements made by vehicles exiting an approach  
3 across multiple lanes in the vicinity of signalized intersections, roads classified by the  
4 Oregon Transportation Commission as collectors or arterials and on-ramps or off-ramps.

5 “(D) Location of the proposed approach within a highway segment with a crash rate that  
6 is 20 percent higher than the statewide average for similar highways.

7 “(E) Location of the proposed approach within a highway segment listed in the top five  
8 percent of locations identified by the safety priority index system developed by the depart-  
9 ment.

10 “(F) Inadequate sight distance from an intersection to the nearest driveway on district  
11 highways and regional highways where the speed limit established in ORS 811.111 or the  
12 designated speed posted under ORS 810.180 is 50 miles per hour or higher.

13 “(11) The department shall use the criteria for determining what constitutes reasonable  
14 access as specified in ORS 374.310.

15 “(12) The department shall make its decision to grant or deny an approach permit on the  
16 record. When the department denies an application or approves an application with condi-  
17 tions, the department shall issue findings specifying the basis of the decision for the record.  
18 The department shall adopt rules specifying the form of the record.

19 “[4] (13) The department and a local government may enter into an intergovernmental agree-  
20 ment setting provisions for and allowing the local government to issue [access permits] **approach**  
21 **permits** for regional and district state highways. The agreement must provide that permits issued  
22 by local governments will be consistent with the highway plan and administrative rules adopted by  
23 the department, with state statutes and with the local transportation system plan acknowledged  
24 under ORS chapter 197. The department shall adopt rules specifying the circumstances under which  
25 authority will be delegated to a local government.

26 “[5] (14) The department shall develop a program that allows a person that might be affected  
27 by the issuance of the permit, but that is not the owner of the property subject to the permit, to  
28 express concerns to the department prior to the issuance of the permit. For purposes of this sub-  
29 section, persons that might be affected by the issuance of the permit are the city or county in which  
30 the road is located and any person that owns property adjacent to the proposed access. Nothing in  
31 this subsection gives a city, county or other person that might be affected standing to appeal any  
32 decision of the department regarding granting of the permit.

33 “**SECTION 14. Appeals process for denial of approach permit and other appealable deci-**  
34 **sions.** There is created a set of dispute resolution procedures governing an appeal of the  
35 Department of Transportation’s decision regarding an approach permit or the removal or  
36 modification of an approach. The procedures described in this section include but are not  
37 necessarily limited to notice, guarantee of an impartial tribunal, burden of proof and admis-  
38 sion and weight of evidence, as follows:

39 “(1) Decisions by the department to deny an application, to deny a deviation or to approve  
40 an application with mitigation measures are appealable by the applicant or permit holder.  
41 An applicant or permit holder may request a hearing. A hearing conducted under this sub-  
42 section shall be conducted as a contested case hearing in accordance with ORS chapter 183.

43 “(2) In addition to requesting a hearing under subsection (1) of this section, an applicant  
44 or permit holder may request the following dispute resolution procedures to resolve issues  
45 relating to the department’s decision:

1       “(a) Collaborative discussion, as established by the department by rule;

2       “(b) Review by an Access Management Dispute Review Board established under section  
3 15 of this 2011 Act; or

4       “(c) Both.

5       “(3) The time required for a collaborative discussion or review by an Access Management  
6 Dispute Review Board process is in addition to the 120 days required for the department’s  
7 final decision under ORS 374.312.

8       “(4)(a) The department shall conduct a collaborative discussion within 45 days of the date  
9 the department receives a request from an applicant or permit holder for collaborative dis-  
10 cussion unless the applicant or permit holder and the department agree to a longer amount  
11 of time.

12       “(b) The department shall conduct a review by an Access Management Dispute Review  
13 Board within 45 days of the date the department receives a request for a review by an Access  
14 Management Dispute Review Board from an applicant or permit holder unless the applicant  
15 or permit holder and the department agree to a longer amount of time.

16       “(5) A request for a dispute resolution procedure shall stay the time in which the de-  
17 partment must issue a final decision for a concurrent contested case hearing.

18       “(6) If an agreement between the parties is reached using collaborative discussion, the  
19 Director of Transportation shall issue the written decision. The written decision is a binding  
20 agreement for the department and for the applicant or permit holder.

21       “(7) The decision pursuant to the collaborative discussion or the Access Management  
22 Dispute Review Board to approve, modify or reverse the department’s decision to approve  
23 an application for an approach permit with conditions, to modify or require mitigation  
24 measures of an existing approach permit, to deny an approach permit or to remove or modify  
25 an approach is a settlement offer and is not a decision that may be appealed.

26       “(8) The department may adopt rules for the dispute resolution procedures described  
27 under this section.

28       “SECTION 15. Access Management Dispute Review Board. (1) If the applicant or permit  
29 holder of an approach permit requests a review by an Access Management Dispute Review  
30 Board under section 14 of this 2011 Act, the Department of Transportation shall appoint an  
31 Access Management Dispute Review Board by selecting members for a board consisting of  
32 any or all of following:

33       “(a) The Director of Transportation or a designee of the director who is familiar with the  
34 location in which the disputed approach is located.

35       “(b) A representative of the local jurisdiction in which the disputed approach is located.

36       “(c) A traffic engineer who practices engineering in Oregon.

37       “(d) A representative from the economic or business sector.

38       “(2) The Access Management Dispute Review Board shall consider information presented  
39 by the parties and shall notify the applicant or permit holder and the director of its findings  
40 regarding the department’s original decision.

41       “(3) The director shall review the Access Management Dispute Review Board’s findings  
42 and may approve, modify or reverse the department’s original decision to approve an appli-  
43 cation for an approach permit with conditions, to modify or require mitigation measures for  
44 an existing approach permit, to deny the approach permit or to remove or modify an ap-  
45 proach.

1 “(4) The director shall notify the applicant or permit holder in writing of the  
 2 department’s determination following a review by an Access Management Dispute Review  
 3 Board appointed under this section.

4 “SECTION 16. Sections 17 to 20 of this 2011 Act are added to and made a part of ORS  
 5 374.305 to 374.330.

6 “SECTION 17. Standards for approach permits. The objective standards for spacing,  
 7 channelization and sight distance for decisions to approve, modify or deny an approach per-  
 8 mit are as follows:

9 “(1) When making a decision to approve or deny an application for an approach permit  
 10 under ORS 374.312, the Department of Transportation shall apply, as one of the standards,  
 11 the standards in Table 1 for spacing between approaches on highway segments where the  
 12 annual average daily traffic is 5,000 or fewer motor vehicles:

13 “

14  
 15 **TABLE 1**

	<b>Regional Highways District Highways Rural and Urban</b>	<b>Statewide Highways Rural Areas</b>	<b>Statewide Highways Urban Areas</b>	<b>Statewide Unincorporated Communities Rural Areas</b>
<b>Speed (miles per hour)</b>	<b>(distance in feet)</b>	<b>(distance in feet)</b>	<b>(distance in feet)</b>	<b>(distance in feet)</b>
<b>55 or higher</b>	<b>650</b>	<b>1,320</b>	<b>1,320</b>	<b>1,320</b>
<b>50</b>	<b>425</b>	<b>1,100</b>	<b>1,100</b>	<b>1,100</b>
<b>40 &amp; 45</b>	<b>360</b>	<b>990</b>	<b>360</b>	<b>750</b>
<b>30 &amp; 35</b>	<b>250</b>	<b>770</b>	<b>250</b>	<b>425</b>
<b>25 or lower</b>	<b>150</b>	<b>550</b>	<b>150</b>	<b>350</b>

31 “

32  
 33 “(a) For spacing between private approaches, the spacing standards described in Table 1  
 34 apply to the distance measured along the highway from the center of an existing or proposed  
 35 private approach to the center of the nearest existing or proposed private approach on the  
 36 same side of the highway in both directions. For spacing between a private and a public ap-  
 37 proach, the standard applies to the distance measured in both directions along the highway  
 38 from the center of an existing or proposed private approach to the center of the nearest  
 39 intersection of the highway with a public approach or another state highway.

40 “(b) The spacing standards for approaches on one-way highways or highways with a  
 41 raised or depressed nontraversable median where only a right-hand or left-hand turn into  
 42 and from the approach is allowed are one-half the spacing standards for highways where the  
 43 annual average daily traffic is more than 5,000 motor vehicles as described in Table 2.

44 “(c) Special transportation areas, access management plans, corridor plans, interchange  
 45 area management plans or interchange management areas, as designated by the Oregon

1 Transportation Commission, may have spacing standards that take precedence over the  
2 spacing standards described in Table 1.

3 “(d) For a signalized private approach, signal spacing standards established by the de-  
4 partment by rule supersede the spacing standards described in Table 1.

5 “(e) The spacing standards in Table 1 do not apply to approaches in existence prior to  
6 January 1, 2012, except when:

7 “(A) A new or change of use of an approach permit is required under ORS 374.312.

8 “(B) Infill development or infill redevelopment occurs and spacing or safety will be im-  
9 proved by moving in the direction of the spacing standards described in Table 1.

10 “(C) A highway or interchange project occurs and spacing or safety will be improved by  
11 moving in the direction of the spacing standards described in Table 1.

12 “(f) The spacing standards for a statewide highway, regional highway or district highway  
13 that is designated as an expressway by the commission where the annual average daily  
14 traffic is 5,000 or fewer motor vehicles are described in Tables 2 to 4.

15 “(2) When making a decision to approve or deny an application for an approach permit,  
16 the department shall apply, as one of the standards, the standards in Table 2 for spacing  
17 between approaches on statewide highways where the annual average daily traffic is more  
18 than 5,000 motor vehicles:

19 “

20  
21 **TABLE 2**

22  
23

Speed	Expressway		Expressway	
	Rural Areas	Urban Areas	Rural Areas	Urban Areas
(miles per hour)	(distance in feet)	(distance in feet)	(distance in feet)	(distance in feet)
55 or higher	5,280	2,640	1,320	1,320
50	5,280	2,640	1,100	1,100
40 & 45	5,280	2,640	990	800
30 & 35	-	-	770	500
25 & lower	-	-	550	350

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35 “(a) For spacing between private approaches, the spacing standards described in Table 2  
36 apply to the distance measured along the highway from the center of an existing or proposed  
37 private approach to the center of the nearest existing or proposed private approach on the  
38 same side of the highway in both directions. For spacing between a private and a public ap-  
39 proach, the standard applies to the distance measured in both directions along the highway  
40 from the center of an existing or proposed private approach to the center of the nearest  
41 intersection of the highway with a public approach or another state highway.

42 “(b) The spacing standards for approaches on one-way highways or highways with a  
43 raised or depressed nontraversable median where only a right-hand or left-hand turn into  
44 and from the approach is allowed are one-half the spacing standards described in Table 2.

45 “(c) Special transportation areas, access management plans, corridor plans, interchange

1 area management plans or interchange management areas, as designated by the commission,  
 2 may have spacing standards that take precedence over the spacing standards described in  
 3 Table 2.

4 “(d) For a signalized private approach, signal spacing standards established by the de-  
 5 partment by rule supersede the spacing standards described in Table 2.

6 “(e) The spacing standards in Table 2 do not apply to approaches in existence prior to  
 7 January 1, 2012, except when:

8 “(A) A new or change of use of an approach permit is required under ORS 374.312.

9 “(B) Infill development or infill redevelopment occurs and spacing and safety will be im-  
 10 proved by moving in the direction of the spacing standards described in Table 2.

11 “(C) A highway or interchange project occurs and spacing and safety will be improved  
 12 by moving in the direction of the spacing standards described in Table 2.

13 “(f) The spacing standards described in Table 2 for a statewide highway that is designated  
 14 as an expressway by the commission also apply to an expressway where the annual average  
 15 daily traffic is 5,000 or fewer motor vehicles.

16 “(3) When making a decision to approve or deny an application for an approach permit,  
 17 the department shall apply, as one of the standards, the standards in Table 3 for the spacing  
 18 between approaches on regional highways where the annual average daily traffic is more  
 19 than 5,000 motor vehicles:

20 “

21  
 22 **TABLE 3**

23

Speed	Expressway		Expressway	
	Rural Areas	Urban Areas	Rural Areas	Urban Areas
(miles per hour)	(distance in feet)	(distance in feet)	(distance in feet)	(distance in feet)
55 or higher	5,280	2,640	990	990
50	5,280	2,640	830	830
40 & 45	5,280	2,640	750	500
30 & 35	-	-	600	350
25 & lower	-	-	450	250

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35  
 36 “(a) For spacing between private approaches, the spacing standards described in Table 3  
 37 apply to the distance measured along the highway from the center of an existing or proposed  
 38 private approach to the center of the nearest existing or proposed private approach on the  
 39 same side of the highway in both directions. For spacing between a private and a public ap-  
 40 proach, the standard applies to the distance measured in both directions along the highway  
 41 from the center of an existing or proposed private approach to the center of the nearest  
 42 intersection of the highway with a public approach or another state highway.

43 “(b) The spacing standards for approaches on one-way highways or highways with a  
 44 raised or depressed nontraversable median where only a right-hand or left-hand turn into  
 45 and from the approach is allowed are one-half the spacing standards described in Table 3.

1           “(c) Special transportation areas, access management plans, corridor plans, interchange  
2 area management plans or interchange management areas, as designated by the commission,  
3 may have spacing standards that take precedence over the spacing standards described in  
4 Table 3.

5           “(d) For a signalized private approach, signal spacing standards established by the de-  
6 partment by rule supersede the spacing standards described in Table 3.

7           “(e) The spacing standards in Table 3 do not apply to approaches in existence prior to  
8 January 1, 2012, except when:

9           “(A) A new or change of use of an approach permit is required under ORS 374.312.

10           “(B) Infill development or infill redevelopment occurs and spacing and safety will be im-  
11 proved by moving in the direction of the spacing standards described in Table 3.

12           “(C) A highway or interchange project occurs and spacing and safety will be improved  
13 by moving in the direction of the spacing standards described in Table 3.

14           “(f) The spacing standards described in Table 3 for a regional highway that is designated  
15 as an expressway by the commission also applies to an expressway where the annual average  
16 daily traffic is 5,000 or fewer motor vehicles.

17           “(4) When making a decision to approve or deny an application for an approach permit,  
18 the department shall apply, as one of the standards, the standards in Table 4 for the spacing  
19 between approaches on district highways where the annual average daily traffic is more than  
20 5,000 motor vehicles:

21 “ \_\_\_\_\_  
22  
23    TABLE 4  
24

Speed (miles per hour)	Expressway		Expressway	
	Rural Areas (distance in feet)	Urban Areas (distance in feet)	Rural Areas (distance in feet)	Urban Areas (distance in feet)
55 or higher	5,280	2,640	700	700
50	5,280	2,640	550	550
40 & 45	5,280	2,640	500	500
30 & 35	-	-	400	350
25 & lower	-	-	400	250

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35 “ \_\_\_\_\_  
36  
37           “(a) For spacing between private approaches, the spacing standards described in Table 4  
38 apply to the distance measured along the highway from the center of an existing or proposed  
39 private approach to the center of the nearest existing or proposed private approach on the  
40 same side of the highway in both directions. For spacing between a private and a public ap-  
41 proach, the standard applies to the distance measured in both directions along the highway  
42 from the center of an existing or proposed private approach to the center of the nearest  
43 intersection of the highway with a public approach or another state highway.

44           “(b) The spacing standards for approaches on one-way highways or highways with a  
45 raised or depressed nontraversable median where only a right-hand or left-hand turn into



1 and from the approach is allowed are one-half the spacing standards described in Table 4.

2 “(c) Special transportation areas, access management plans, corridor plans, interchange  
3 area management plans or interchange management areas, as designated by the commission,  
4 may have spacing standards that take precedence over the spacing standards described in  
5 Table 4.

6 “(d) For a signalized private approach, signal spacing standards established by the de-  
7 partment by rule supersede the spacing standards described in Table 4.

8 “(e) The spacing standards in Table 4 do not apply to approaches in existence prior to  
9 January 1, 2012, except when:

10 “(A) A new or change of use of an approach permit is required under ORS 374.312.

11 “(B) Infill development or infill redevelopment occurs and spacing and safety will be im-  
12 proved by moving in the direction of the spacing standards described in Table 4.

13 “(C) A highway or interchange project occurs and spacing and safety will be improved  
14 by moving in the direction of the spacing standards described in Table 4.

15 “(f) The spacing standards described in Table 4 for a district highway that is designated  
16 as an expressway by the commission also apply to an expressway where the annual average  
17 daily traffic is 5,000 or fewer motor vehicles.

18 “(5)(a) The department may require channelization on the highway as a condition for the  
19 approval of an approach permit if any of the following conditions exist:

20 “(A) The number of average daily trips at the property exceeds 400 when the property is  
21 located on a two-lane highway with an annual average daily traffic of 5,000 or more motor  
22 vehicles.

23 “(B) The number of average daily trips at the property exceeds 400 when the property is  
24 located on a four-lane highway with an annual average daily traffic of 10,000 or more motor  
25 vehicles.

26 “(C) The product of the number of average daily trips at the property multiplied by the  
27 annual average daily traffic on the highway is equal to or greater than the products listed  
28 in the table below:

29 “

30  
31 **TABLE 5**

32  
33 **Product of Property’s Average Daily Trips Multiplied by the**  
34 **Abutting Highway’s Annual Average Daily Traffic (Millions)**

35	36	37	38	39	40
Number of	Speed	Speed	Speed	Speed	
highway	25 mph	30-35	40-45	50 mph	
lanes	or lower	mph	mph	or higher	
41	2 lanes	5.1	3.9	1.8	1.3
42	4 lanes	10.2	7.8	3.6	2.6

43 “

44 “(b) The number of average daily trips at a property may be determined by a traffic im-  
45 pact analysis or from national standards, as determined by the department. A vehicle that

1 enters and exits a property has made two trips.

2 “(c) The annual average daily traffic for a state highway may be determined from the  
3 most recent edition of the transportation volume tables published annually by the depart-  
4 ment. The department shall post the transportation volume tables on the department’s  
5 website.

6 “(6) The department may adopt by rule a standard for sight distance based on nationally  
7 accepted standards.

8 “(7) As used in this section:

9 “(a) ‘Infill development’ means the development of vacant or remnant land that has been  
10 passed over by previous development and that is consistent with zoning. Infill occurs in ur-  
11 ban areas. It may also occur in rural areas on commercially or industrially zoned land where  
12 the land has been developed into an urban block pattern including a local street network  
13 where the highway speed is 45 miles per hour or less.

14 “(b) ‘Infill redevelopment’ means changing an existing development including replace-  
15 ment, remodeling or reuse of existing structures to accommodate new development that is  
16 consistent with current zoning. Redevelopment occurs in urban areas. It may also occur in  
17 rural areas on commercially or industrially zoned land where the land has been developed  
18 into an urban block pattern including a local street network and where the highway speed  
19 is 45 miles per hour or less.

20 “(c) ‘Rural’ means the area outside an urban growth boundary, the area outside a special  
21 transportation area in an unincorporated community or the area outside an urban  
22 unincorporated community.

23 “(d) ‘Speed’ means the speed limit established in ORS 811.111 or the designated speed  
24 posted under ORS 810.180.

25 “(e) ‘Urban’ means the area within an urban growth boundary, the area within a special  
26 transportation area of an unincorporated community or the area within an urban  
27 unincorporated community.

28 “SECTION 18. Traffic impact analysis. (1) Except as provided in subsection (2) of this  
29 section, the Department of Transportation may require a person applying for an approach  
30 permit under ORS 374.312 to submit a traffic impact analysis in conjunction with the appli-  
31 cation for an approach permit.

32 “(2) The department may not require a person applying for an approach permit to submit  
33 a traffic impact analysis when:

34 “(a) The average daily volume of trips at the property is 400 or fewer trips.

35 “(b) The average daily volume of trips at the property is more than 400 but fewer than  
36 1,001 trips if:

37 “(A) The highway is a two-lane highway with fewer than 5,000 motor vehicles in annual  
38 average daily traffic;

39 “(B) The highway is a three-lane highway with fewer than 15,000 motor vehicles in annual  
40 average daily traffic;

41 “(C) The highway is a four-lane highway with fewer than 10,000 motor vehicles in annual  
42 average daily traffic; or

43 “(D) The highway is a five-lane highway with fewer than 25,000 motor vehicles in annual  
44 average daily traffic.

45 “(3) The average daily trips at a property may be determined using nationally recognized

1 standards, as adopted by the department by rule.

2 “(4) The number of motor vehicles in annual average daily traffic for a state highway  
3 may be determined from the most recent edition of the transportation volume tables pub-  
4 lished annually by the department. The department shall post the transportation volume ta-  
5 bles on the department’s website.

6 “**SECTION 19. Collaboration with highway users.** (1) The Department of Transportation  
7 shall work collaboratively with highway users on all proposals to install a raised or depressed  
8 barrier on two-lane segments of state highways.

9 “(2) As used in this section ‘highway users’ includes representatives of the freight in-  
10 dustry and automobile users and may include representatives of local government and other  
11 transportation stakeholders, as appropriate.

12 “**SECTION 20. Highway classification.** The Oregon Transportation Commission shall pe-  
13 riodically review, not less often than every six years, the classification of state highways,  
14 including the designation of highway segments as expressways, as a part of its comprehen-  
15 sive, long-range transportation plan developed pursuant to ORS 184.618 to ensure that the  
16 classifications for the highways and designations of expressways are appropriate to their  
17 uses.

18 “**SECTION 21.** ORS 373.015 is amended to read:

19 “373.015. (1) **Except as provided in section 23 of this 2011 Act**, before the Department of  
20 Transportation acquires within any incorporated city any new rights of way, or relocates or aban-  
21 dons any existing state highway within any incorporated city, the department shall [*by letter*] notify  
22 the mayor of [*such*] **the city by letter** of the action contemplated by the department.[, *and*,]

23 “(2) **If the department receives from the mayor or city council** any remonstrances or ob-  
24 jections [*thereto are made by the mayor or the council of such city*] within 10 days after [*receipt of*  
25 *such letter*,] **the mayor received the letter under subsection (1) of this section**, the department,  
26 or its designated representative, shall hold a public hearing at the city hall in [*such*] **the city**.[, *after*  
27 *having first given written notice thereof to the mayor*]

28 “(3) **The department shall provide written notice to the mayor** at least 10 days prior  
29 [*thereto*] **to the public hearing**, and[,] at [*such*] **the public hearing**[,] persons who favor or oppose  
30 the contemplated action shall be given an opportunity to be heard.

31 “**SECTION 22. Section 23 of this 2011 Act is added to and made a part of ORS 374.305 to**  
32 **374.330.**

33 “**SECTION 23.** (1) **When it is determined by the Department of Transportation and a city**  
34 **that it is in the best interest of highway users to abandon a segment of the state highway,**  
35 **the department and the city may enter into an agreement to transfer jurisdiction and own-**  
36 **ership of the segment of state highway to the city.**

37 “(2) **In addition to funds provided to the city under ORS 366.800, the department may**  
38 **agree to provide funds annually to the city for the continued construction, repair, mainte-**  
39 **nance and improvement of the abandoned state highway from the State Highway Fund.**

40 “(3) **The agreement between the department and the city accepting jurisdiction must**  
41 **contain provisions to ensure that freight movement on the highway will not be restricted**  
42 **beyond the limits set in the agreement, unless the Oregon Transportation Commission, in**  
43 **consultation with the freight industry and the city, concludes that the restriction is neces-**  
44 **sary for the safety of the highway users. Nothing in this section prevents a city from taking**  
45 **emergency action to protect safety or place weight restrictions on a structure that is failing**

1 **or otherwise damaged.**

2 **“SECTION 24.** ORS 366.290 is amended to read:

3 “366.290. (1) The Department of Transportation may select, locate, establish, designate, improve  
4 and maintain out of the highway fund a system of state highways, and for that purpose may, by  
5 mutual agreement with several counties, select county roads or public roads. By an appropriate or-  
6 der entered in its records the department may designate and adopt such roads as state highways.  
7 Thereafter the construction, improvement, maintenance and repair of such roads shall be under the  
8 jurisdiction of the department.

9 “(2) In the selection of highways or roads to [*comprise*] **be included in** the state highway system  
10 the department shall give consideration to and shall select such county roads or public roads as  
11 will contribute to and best promote the completion of an adequate system of state highways.

12 “(3)(a) With the written [*consent*] **agreement** of the county in which a particular highway or  
13 part thereof is located, the department may, when in its opinion the interests of [*the state*] **highway**  
14 **users** will be best served, eliminate from the state highway system any road, [*or highway or part*  
15 *thereof. Thereafter*] **highway, road segment or highway segment.** The road, [*or*] highway or [*part*  
16 *thereof eliminated shall become*] **segment becomes** a county road or highway, and the construction,  
17 repair, maintenance or improvement, and jurisdiction over [*such highway shall*] **the road or high-**  
18 **way will** be exclusively under the county in which [*such highway or road*] **the road or highway** is  
19 located.

20 “(b) **In addition to the funds provided under ORS 366.762 to the county, the department**  
21 **may annually provide funds out of the State Highway Fund to address the additional costs**  
22 **to the county for the construction, repair, maintenance or improvement of the road or**  
23 **highway over which the county accepts jurisdiction.**

24 “(c) **The agreement between the department and the county accepting jurisdiction must**  
25 **contain provisions to ensure that freight movement on the highway will not be restricted**  
26 **beyond the limits set in the agreement, unless the Oregon Transportation Commission, in**  
27 **consultation with the freight industry and the county, concludes that the restriction is nec-**  
28 **essary for the safety of the highway users. Nothing in this section prevents a county from**  
29 **taking emergency action to protect safety or place weight restrictions on a structure that**  
30 **is failing or otherwise damaged.**

31 “(4) The construction, maintenance and repair of state highways shall be carried on at the sole  
32 expense of the state or at the expense of the state and the county by mutual agreement between the  
33 department and the county in which any particular state highway is located.

34 **“SECTION 25.** ORS 811.430 is amended to read:

35 “811.430. (1) A person commits the offense of driving on a highway divider if the person drives  
36 a vehicle over, across or within a dividing space, barrier or section that is an intervening space,  
37 physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic  
38 and that divides a highway into two or more roadways.

39 “(2) **For purposes of this section, a ‘dividing space’ includes pavement markings of solid**  
40 **double yellow lines with yellow cross-hatching between the double yellow lines.**

41 “[2] (3) This section does not apply when the movement of a vehicle that is otherwise prohib-  
42 ited by this section is made:

43 “(a) At an authorized crossover or intersection; or

44 “(b) At the specific direction of a road authority.

45 “[3] (4) The offense described in this section, driving on a highway divider, is a Class B traffic

1 violation.

2 “**SECTION 26.** Section 2, chapter 31, Oregon Laws 2010, is amended to read:

3 “**Sec. 2.** [(1)] The Department of Transportation, in cooperation with stakeholders, shall develop  
4 proposed legislation to codify, clarify and bring consistency to issuance of [access] **approach** permits  
5 based on objective standards.

6 “[2] *The department shall provide a report to the Legislative Assembly prior to January 2011. The*  
7 *report must include a description of the proposed legislation developed under subsection (1) of this*  
8 *section.*]

9 “**SECTION 27. Access Management Oversight Task Force.** (1) **The Access Management**  
10 **Oversight Task Force is established, consisting of 11 members appointed as follows:**

11 “(a) **The President of the Senate shall appoint two members from among members of the**  
12 **Senate.**

13 “(b) **The Speaker of the House of Representatives shall appoint three members from**  
14 **among members of the House of Representatives.**

15 “(c) **The Governor shall appoint six members as follows:**

16 “(A) **One member who is the Director of Transportation or the director’s designee;**

17 “(B) **One member who is a representative of the development community;**

18 “(C) **Two members who are representatives of local governments; and**

19 “(D) **Two members who represent highway users.**

20 “(2) **In selecting the legislative members of the task force, the Senate President and the**  
21 **Speaker of the House of Representatives shall work together to ensure that each of the five**  
22 **geographic regions of the Department of Transportation, as described in section 10, chapter**  
23 **865, Oregon Laws 2009, are represented.**

24 “(3) **The task force shall provide oversight and monitor the department’s:**

25 “(a) **Ongoing progress in proposing legislation to codify, clarify and bring consistency to**  
26 **issuance of approach permits based on objective standards as required under section 2,**  
27 **chapter 31, Oregon Laws 2010, and in adopting consistent administrative rules.**

28 “(b) **Implementation of this section and sections 2, 14 to 20 and 23 of this 2011 Act and**  
29 **the amendments to ORS 366.290, 373.015, 374.305, 374.312 and 811.430 by sections 3, 13, 21, 24**  
30 **and 25 of this 2011 Act.**

31 “(4) **The task force may recommend legislation to the Legislative Assembly as necessary.**

32 “(5) **A majority of the members of the task force constitutes a quorum for the trans-**  
33 **action of business.**

34 “(6) **Official action by the task force requires the approval of a majority of the members**  
35 **of the task force.**

36 “(7) **The task force shall elect one of its members to serve as chairperson.**

37 “(8) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**  
38 **ment to become immediately effective.**

39 “(9) **The task force shall meet at times and places specified by the call of the chairperson**  
40 **or of a majority of the members of the task force.**

41 “(10) **The task force may adopt rules necessary for the operation of the task force.**

42 “(11) **The department shall provide staff support to the task force.**

43 “(12) **Notwithstanding ORS 171.072, members of the task force who are members of the**  
44 **Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volun-**  
45 **teers on the task force. Other members of the task force are not entitled to compensation**

1 or reimbursement for expenses and serve as volunteers on the task force.

2 “(13) The task force shall report its findings and recommendations on access manage-  
3 ment to the interim committees related to transportation each year in the manner provided  
4 by ORS 192.245 no later than December 1.

5 “SECTION 28. Section 2, chapter 31, Oregon Laws 2010, as amended by section 26 of this  
6 2011 Act, and section 27 of this 2011 Act are repealed on January 2, 2016.

7 “SECTION 29. Sections 1, 2, 14 to 20, 22, 23 and 27 of this 2011 Act and the amendments  
8 to ORS 366.290, 373.015, 374.305, 374.312 and 811.430 and section 2, chapter 31, Oregon Laws  
9 2010, by sections 3, 13, 21 and 24 to 26 of this 2011 Act become operative on January 1, 2012.

10 “SECTION 30. The section captions used in this 2011 Act are provided only for the con-  
11 venience of the reader and do not become part of the statutory law of this state or express  
12 any legislative intent in the enactment of this 2011 Act.

13 “SECTION 31. This 2011 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
15 on its passage.”.

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