

**PROPOSED AMENDMENTS TO
SENATE BILL 264**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and line 3 and insert “366.290, 373.015, 374.305, 374.310, 374.312, 374.315,
3 374.330, 374.335, 374.990 and 811.430 and section 2, chapter 31, Oregon Laws
4 2010; and declaring 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
7 of ORS 374.305 to 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
10 highway or a county road.**

11 **“(2) ‘District highway’ means a state highway that has been classi-
12 fied by the Oregon Transportation Commission as a district highway.**

13 **“(3) ‘Expressway’ means a state highway that has been classified
14 by the commission as an expressway.**

15 **“(4) ‘Interstate highway’ means a state highway that has been
16 classified by the commission as an interstate highway.**

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

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

22 **“(7) ‘Private approach’ means an approach that serves one or more**

1 **properties and that is not a public approach.**

2 **“(8) ‘Private road crossing’ means a privately owned road designed**
3 **for use by trucks that are prohibited by law from using state high-**
4 **ways, county roads or other public highways.**

5 **“(9) ‘Public approach’ means an existing or planned city street or**
6 **county road connection that provides vehicular access to and from a**
7 **highway.**

8 **“(10) ‘Regional highway’ means a state highway that has been**
9 **classified by the commission as an regional highway.**

10 **“(11) ‘Sight distance’ means a length of highway that a driver can**
11 **see with an acceptable level of clarity. The Department of Transpor-**
12 **tation may adopt by rule a standard for sight distance based on na-**
13 **tionally accepted standards.**

14 **“(12) ‘State highway’ means a highway that is under the jurisdiction**
15 **of the department.**

16 **“(13) ‘Statewide highway’ means a state highway that has been**
17 **classified by the commission as a statewide highway.**

18 **“(14) ‘Trip’ means a one-way vehicular movement that consists of**
19 **a motor vehicle entering or exiting a property.**

20 **“(15) ‘Unincorporated community’ means a settlement that is not**
21 **incorporated as a city and that lies outside the urban growth boundary**
22 **of any city.**

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

24 **“374.305. (1) [No] A person [, *firm or corporation*] may **not** place, build or**
25 **construct on the right of way of any state highway or county road, any ap-**
26 **proach road, structure, pipeline, ditch, cable or wire, or any other facility,**
27 **thing or appurtenance, or substantially alter any such facility, thing or**
28 **appurtenance or change the manner of using any such approach road without**
29 **first obtaining written permission from the Department of Transportation**
30 **with respect to state highways or the county court or board of county com-**

1 missioners with respect to county roads.

2 “(2) After written notice of not less than 10 days to the permittee and an
3 opportunity for a hearing, the department with respect to crossings over a
4 state highway and the county court or board of county commissioners with
5 respect to crossings over a county road may abolish any crossing at grade
6 by a private road or may alter or change any private road crossing when the
7 public safety, public convenience and the general welfare require the alter-
8 ation or change.

9 “[~~(3)~~ As used in ORS 374.305 to 374.330:]

10 “[~~(a)~~ ‘Approach road’ includes a private road that crosses a state highway
11 or a county road.]

12 “[~~(b)~~ ‘Private road crossing’ means a privately owned road designed for use
13 by trucks which are prohibited by law from using state highways, county roads
14 or other public highways.]

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

17 “374.310. (1) The Department of Transportation [*with respect to state*
18 *highways and the county court or board of county commissioners with respect*
19 *to county roads*] shall adopt reasonable rules [*and regulations*] and may issue
20 permits, not inconsistent with law, for the use of the rights of way of
21 [*such*] **state** highways [*and roads*] for the purposes described in ORS 374.305.
22 However, the department may not issue a permit for the construction of any
23 approach road at a location where no rights of access exist between the
24 highway and abutting real property.

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

30 “(a) Provisions for construction of culverts under approaches, require-

1 ments as to depth of fills over culverts and requirements for drainage facil-
2 ities, curbs, islands and other facilities for traffic channelization as may be
3 deemed necessary.

4 “(b) With respect to private road crossings, additional provisions for the
5 angle of intersection, crossing at grade or other than grade, sight distances,
6 safety measures including flaggers, crossing signs and signals, reinforcement
7 for protection of the highway, maintenance of the crossing and for payment
8 by the applicant of **any of** the costs of [*any of the foregoing*] **complying with**
9 **the provisions.**

10 “(c) With respect to private road crossings, the [*granting authority*] **de-**
11 **partment** may also require the applicant to furnish:

12 “(A) Public liability and property damage insurance in a sum fixed by the
13 [*granting authority, which insurance shall also indemnify*] **department that**
14 **indemnifies** the [*members,*] officers, employees and agents of [*such*
15 *authority*] **the department** from any claim that might arise on account of
16 the granting of the permit and the crossing of the highway [*or road*] by ve-
17 hicles operating under the permit; and [*the granting authority may also re-*
18 *quire the applicant to furnish*]

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

24 “(3) The powers granted by this section and ORS 374.315 may not be ex-
25 ercised so as to deny any property [*adjoining*] **abutting** the [*road or*] high-
26 way reasonable access. In determining what is reasonable, the department
27 [*or county court or board of county commissioners*] shall apply the following
28 criteria:

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

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

4 “(4)(a) As used in this subsection:

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

7 “(B) ‘Private approach’ means an approach that serves one or more prop-
8 erties and that is not a public approach [*as defined in this subsection*].

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

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

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

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

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

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

20 “(B) The increase in subparagraph (A)(i) or (ii) of this paragraph repres-
21 ents a 20 percent or greater increase in the number of [*trips on a typical day*
22 *and the number of*] peak hour trips **and the number of trips on a typical**
23 **day** from that of the property’s prior use.

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

28 “(5) The department shall establish access management rules, mitigation
29 measures and spacing and mobility standards that are less stringent for
30 highway segments where the annual average amount of daily traffic is 5,000

1 motor vehicles or fewer, than for highway segments where the annual aver-
2 age amount of daily traffic is greater than 5,000 motor vehicles.

3 “(6) The department may not charge any fee for issuance of a permit un-
4 der this section for construction of an approach road.

5 **“SECTION 5.** ORS 374.310, as amended by section 1, chapter 31, Oregon
6 Laws 2010, and section 4 of this 2011 Act, is amended to read:

7 “374.310. (1) The Department of Transportation shall adopt [*reasonable*
8 *rules and may issue permits, not inconsistent with law, for the use of the rights*
9 *of way of state highways for the purposes described in ORS 374.305.*] **rules**
10 **consistent with this section and ORS 374.312 to govern the process of**
11 **application for issuance of permits for approach roads to state high-**
12 **ways by owners of property abutting highways.** However, the department
13 may not issue a permit for the construction of any approach road at a lo-
14 cation where no rights of access exist between the highway and abutting real
15 property.

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

20 “(a) Provisions for construction of culverts under approaches, require-
21 ments as to depth of fills over culverts and requirements for drainage facil-
22 ities, curbs, islands and other facilities for traffic channelization as may be
23 deemed necessary.

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

29 “(c) With respect to private road crossings, the department may also re-
30 quire the applicant to furnish:

1 “(A) Public liability and property damage insurance in a sum fixed by the
2 department that indemnifies the officers, employees and agents of the de-
3 partment from any claim that might arise on account of the granting of the
4 permit and the crossing of the highway by vehicles operating under the
5 permit; and

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

10 “(3) The powers granted by this section and ORS 374.315 may not be ex-
11 ercised so as to deny any property abutting the highway reasonable access.
12 In determining what is reasonable, the department shall apply the following
13 criteria:

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

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

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

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

22 “[(B) *‘Private approach’ means an approach that serves one or more prop-*
23 *erties and that is not a public approach.*]

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

26 “[(D) *‘Trip’ means a one-way vehicular movement that consists of a motor*
27 *vehicle entering or exiting a property.*]

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

29 “[(c) *A new approach permit for a change of use of an approach is required*
30 *for a private approach if:*]

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

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

5 “[B) The increase in subparagraph (A)(i) or (ii) of this paragraph repres-
6 ents a 20 percent or greater increase in the number of peak hour trips and the
7 number of trips on a typical day from that of the property’s prior use.]

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

12 “[5) The department shall establish access management rules, mitigation
13 measures and spacing and mobility standards that are less stringent for
14 highway segments where the annual average amount of daily traffic is 5,000
15 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
18 allow the authorized uses for the property identified in the acknowl-
19 edged local comprehensive plan under subsection (3)(a) of this section
20 or that the type, number, size and location of approaches is adequate
21 to serve the volume and type of traffic reasonably anticipated to enter
22 and exit the property, based on the planned uses for the property,
23 under subsection (3)(b) of this section shall be based on the economic
24 development needs of the property abutting the highway for its au-
25 thorized and planned uses, subject only to consideration of safety and
26 highway operations, the department shall have the burden of estab-
27 lishing safety and highway operations concerns.**

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

29 **“(6) The department may not charge any fee for issuance of a permit un-
30 der this section for construction of an approach road.**

1 **“SECTION 6. The amendments to ORS 374.310 by section 5 of this**
2 **2011 Act become operative January 1, 2012.**

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

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

10 **“(2) Rules and regulations adopted and permits issued under sub-**
11 **section (1) of this section shall include provisions, terms and condi-**
12 **tions that in the judgment of the granting authority are in the best**
13 **interest of the public for the protection of the road and the traveling**
14 **public and may include, but need not be limited to:**

15 **“(a) Provisions for construction of culverts under approaches, re-**
16 **quirements as to depth of fills over culverts and requirements for**
17 **drainage facilities, curbs, islands and other facilities for traffic**
18 **channelization as may be deemed necessary.**

19 **“(b) With respect to private road crossings, additional provisions for**
20 **the angle of intersection, crossing at grade or other than grade, sight**
21 **distances, safety measures including flaggers, crossing signs and**
22 **signals, reinforcement for protection of the road, maintenance of the**
23 **crossing and for payment by the applicant of any of the costs of com-**
24 **plying with the provisions.**

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

27 **“(A) Public liability and property damage insurance in a sum fixed**
28 **by the granting authority that indemnifies the members, officers,**
29 **employees and agents of the granting authority from any claim that**
30 **might arise on account of the granting of the permit and the crossing**

1 of the road by vehicles operating under the permit; and

2 “(B) Indemnity insurance, an indemnity bond or an irrevocable
3 letter of credit issued by an insured institution as defined in ORS
4 706.008 in a sum fixed by the granting authority, indemnifying the
5 granting authority for any damage to the roads that may be caused
6 by the use of the crossing.

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

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

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

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

18 “374.315. All construction under the permits issued under ORS 374.310
19 **and section 8 of this 2011 Act** shall be under the supervision of the grant-
20 ing authority and at the expense of the applicant. After completion of the
21 construction of the particular approach road, facility, thing or appurtenance,
22 they shall be maintained at the expense of the applicant and in accordance
23 with the rules and regulations adopted pursuant to ORS 374.310 **and section**
24 **8 of this 2011 Act.**

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

26 “374.330. (1) [*Nothing in*] ORS 374.305, 374.310 and 374.325, as [*such*] **those**
27 sections were amended by chapter 323, Oregon Laws 1957, [*shall be deemed*
28 *to*] **and section 8 of this 2011 Act do not** affect any approach road, struc-
29 ture, pipeline, ditch, cable or wire, or other facility, thing or appurtenance
30 lawfully placed or constructed upon the right of way of any highway prior

1 to August 20, 1957.

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

8 “(b) Except as provided in paragraph (a) of this subsection, private road
9 crossings authorized by the Public Utility Commission under ORS 374.205 to
10 374.260 (1965 Replacement Part) are subject to ORS 374.305 to 374.330 after
11 September 13, 1967.

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

13 “374.335. Where any private road crosses or is crossed by a public high-
14 way the driving of a motor vehicle across the public highway or upon the
15 public highway for a distance of not to exceed 1,200 feet in the use of the
16 private road [*shall*] **is** not [*be*] subject to ORS 811.450, 815.155, 815.160,
17 815.170, 818.020, 818.060, 818.090, 818.110, 818.160, 818.300, 818.320, 818.340,
18 818.350, 818.400 and ORS chapter 825, provided such vehicle or vehicle use
19 is:

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

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

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

24 “374.990. In addition to the liability for expenses under ORS 374.307 and
25 374.320, violation of ORS 374.305 or of any rule or regulation adopted under
26 ORS 374.310 **or section 8 of this 2011 Act** is a misdemeanor.

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

28 “374.312. [(1) *The Department of Transportation shall adopt rules governing*
29 *the process of application for and issuance of permits for approach roads to*
30 *highways by owners of property abutting the highways. Rules adopted by the*

1 department shall include, but need not be limited to:]

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

6 “[b] Standards that will be used in making decisions as to whether to
7 grant or deny a permit. Standards applicable to approach roads shall be based
8 on a policy of using local road systems and state highways in a manner con-
9 sistent with the local transportation system plan and the land uses permitted
10 in the local comprehensive plan acknowledged under ORS chapter 197. In ad-
11 dition, the standards shall require consideration of safety and highway
12 functionality.]

13 “[c] Criteria for determining what constitutes reasonable access as speci-
14 fied in ORS 374.310 (3).]

15 “[d] Procedures governing an appeal of denial of a permit, including but
16 not necessarily limited to notice, guarantee of an impartial tribunal, burden
17 of proof and admission and weight of evidence.]

18 “[e] A rule that an engineer with relevant experience will review and re-
19 spond to evidence from a qualified expert that is submitted by an applicant.]

20 “[2] A permit decision for an approach road must be made on the basis
21 of standards and criteria in effect on the date that the application was filed.]

22 “[3] A permit decision for an approach road must be made on the record.
23 The department shall adopt rules specifying the form of the record.]

24 **“(1) It is the intent of the Legislative Assembly to develop a high-
25 way access management system based on objective standards that will
26 balance the economic development objectives of properties abutting
27 state highways with the transportation safety and access management
28 objectives of state highways, in a manner consistent with local trans-
29 portation system plans and the land uses permitted in the local com-
30 prehensive plans acknowledged under ORS chapter 197. The**

1 Department of Transportation shall comply with the legislative direc-
2 tives, objective standards and procedures established in this section for
3 the governance of the process for application by and the issuance of
4 approach permits to owners of property abutting the highway and
5 shall adopt rules consistent with this section.

6 “(2) The department shall make its final decision, including resol-
7 ution of all internal appeals, to grant or deny an approach permit
8 within 120 days of the date the department receives an application for
9 an approach permit, unless the applicant and the department agree to
10 an extension.

11 “(3) The department shall make its decision to grant or deny an
12 approach permit based on the standards described in section 17 of this
13 2011 Act and the standards and criteria in effect on the date that the
14 application was filed.

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

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

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

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

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

27 “(c) The department demonstrates that safety or operational prob-
28 lems related to the approach are occurring on a highway. Any required
29 mitigation measures shall be limited to addressing the identified safety
30 or operational problems.

1 “(d) The approach does not meet a stopping sight distance require-
2 ment, as measured in feet, of 10 times the speed limit established in
3 ORS 811.111 or the designated speed posted under ORS 810.180 for the
4 highway as measured in miles per hour, or 10 times the 85th percentile
5 speed of the highway where the 85th percentile speed is higher or lower
6 than the speed limit established in ORS 811.111 or the designated speed
7 posted under ORS 810.180. The permit holder may perform a study to
8 determine if the 85th percentile speed is higher or lower than the speed
9 limit established in ORS 811.111 or the designated speed posted under
10 ORS 810.180. The sight distance measurement and the study to deter-
11 mine the 85th percentile speed shall be performed according to pub-
12 lished department procedures by or under the supervision of an
13 engineer registered in Oregon.

14 “(5)(a) When a change of use of an approach permit is required
15 under subsection (4) of this section, the department shall approve an
16 application if the application proposes to move an approach in the di-
17 rection of conforming with the standards described in section 17 of this
18 2011 Act, subject to consideration of safety and highway operations.

19 “(b) Whether the application moves in the direction of conforming
20 with the standards described in section 17 of this 2011 Act, while not
21 posing safety or highway operations concerns, shall be established by
22 the department and the applicant using a collaborative process that
23 is made available to the applicant within 30 days of the date the de-
24 partment determines an application to be complete, as established by
25 the department by rule.

26 “(c) Applications that are deemed to be moving in the direction of
27 conforming with the standards described in section 17 of this 2011 Act
28 regarding spacing and channelization and with sight distance require-
29 ments do not require separate deviations from those standards.

30 “(d) For the purposes of this subsection, an approach moves in the

1 direction of conforming with the standards established under section
2 17 of this 2011 Act and with sight distance requirements if changes are
3 made to the approach that include but are not limited to:

4 “(A) Eliminating or combining existing approaches to the highway
5 resulting in a net reduction in the number of approaches to the high-
6 way.

7 “(B) Improving the spacing of private approaches and public ap-
8 proaches.

9 “(C) Improving the intersection sight distance.

10 “(D) Widening the existing driveways to accommodate truck turn-
11 ing radius requirements.

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

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

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

18 “(6) The department shall approve applications that meet the spac-
19 ing and channelization standards described in section 17 of this 2011
20 Act and the requirements for sight distance subject only to consider-
21 ation of safety and highway operations concerns as provided in sub-
22 section (10)(g) of this section and the traffic impact analysis
23 requirements described in section 18 of this 2011 Act.

24 “(7) Applications that do not meet the sight distance requirements
25 or the standards described under section 17 of this 2011 Act may be
26 approved with deviations from the sight distance requirements or
27 standards as follows:

28 “(a) A request for one or more deviations from the sight distance
29 requirements or the standards described in section 17 of this 2011 Act
30 may be included in an application for one or more private approaches

1 that do not meet the standards.

2 “(b) Unless waived by the department, a request for a deviation
3 must include a traffic impact analysis provided by the applicant that
4 addresses a request for deviations from the sight distance require-
5 ments or the standards described in section 17 of this 2011 Act for
6 safety and highway operations.

7 “(c) A request for a deviation may be approved based upon a de-
8 termination by the engineer assigned by the department to analyze the
9 request for a deviation that the approach adequately addresses the
10 safety and highway operations concerns identified in subsection (10)(g)
11 of this section.

12 “(d) A request for a deviation from the sight distance requirements
13 or the spacing standards described in section 17 of this 2011 Act may
14 be approved based on the results of a speed study performed by the
15 applicant and agreed to by the department that determines that the
16 85th percentile speed is lower than the current posted speed.

17 “(8) Where a property has a right of access and there is no means
18 of access to the property other than the state highway, an approach
19 that does not meet the spacing standards described in section 17 of this
20 2011 Act is not a deviation from the standards if the department and
21 the applicant agree on a location of the approach that optimizes
22 safety, highway operations and site design.

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

25 “(a) The department shall determine whether an application for an
26 approach permit is complete within 30 days of receipt of the applica-
27 tion.

28 “(b) The department shall approve an application, approve an ap-
29 plication with conditions or deny an application:

30 “(A) Within 30 days of the date that the department determines the

1 application to be complete, for applications that meet spacing and
2 channelization standards described in section 17 of this 2011 Act and
3 sight distance standards; or

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

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

10 “(d) When the department proposes to deny an approach permit
11 application or approve an application with conditions, the department
12 shall notify the applicant of its intent and offer the applicant a
13 collaborative discussion as provided in section 14 of this 2011 Act.

14 “(e) If the offer of a collaborative discussion is declined, the de-
15 partment shall issue its decision in writing with sufficient specificity
16 regarding any safety or highway operations concerns upon which the
17 department’s decision is based to allow the applicant to respond.

18 “(f) The department’s decision shall advise the applicant of the
19 applicant’s rights for dispute resolution processes to resolve issues
20 relating to the department’s decision as set forth in section 14 of this
21 2011 Act.

22 “(10) The following directives apply to all applications for an ap-
23 proach permit:

24 “(a) All applications are required to meet sight distance standards
25 unless a deviation is otherwise approved by the department.

26 “(b) Except for highways classified as interstate highways and ex-
27 pressways by the Oregon Transportation Commission, the department
28 may not use the presence of alternate access to a property abutting a
29 highway as a basis for denying an approach permit application, except
30 in rural areas where the presence of alternative access is a consider-

1 **ation in determining whether to approve or deny a second or subse-**
2 **quent approach permit application.**

3 **“(c) The department may not impose nontraversable medians as a**
4 **mitigation measure for approach permit applications unless the de-**
5 **partment first establishes that no other mitigation measures are ef-**
6 **fective or available under the circumstances.**

7 **“(d) Mobility standards, established by the department by rule, are**
8 **not applicable to turning movements from private approaches during**
9 **the department’s review of approach permit applications, except when**
10 **the ratio of volume to capacity on the proposed private approach is**
11 **1.0 or greater.**

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

14 **“(f) The department shall utilize an engineer with relevant experi-**
15 **ence to review and respond to evidence from a qualified expert that is**
16 **submitted by the applicant.**

17 **“(g) The department shall have the burden of proving any safety**
18 **or highway operations concerns relied upon in the department’s deci-**
19 **sion to approve an application with conditions or deny an application.**
20 **Safety or highway operations concerns that may be applied to the**
21 **department’s permit decisions on applications submitted under this**
22 **section are limited to the following unique safety and highway oper-**
23 **ations concerns:**

24 **“(A) Regular queuing on the highway that impedes turning move-**
25 **ments associated with the proposed approach.**

26 **“(B) Offset approaches that may create the potential for overlap-**
27 **ping left turn movements or competing use of a center turn lane.**

28 **“(C) Insufficient distance for weave movements made by vehicles**
29 **exiting an approach across multiple lanes in the vicinity of signalized**
30 **intersections, roads classified by the Oregon Transportation Commis-**

1 **sion as collectors or arterials and on-ramps or off-ramps.**

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

5 **“(E) Location of the proposed approach within a highway segment**
6 **listed in the top five percent of locations identified by the safety pri-**
7 **ority index system developed by the department.**

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

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

14 **“(12) The department shall make its decision to grant or deny an**
15 **approach permit on the record. When the department denies an ap-**
16 **plication or approves an application with conditions, the department**
17 **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**
20 **intergovernmental agreement setting provisions for and allowing the local**
21 **government to issue [access permits] **approach permits** for regional and**
22 **district state highways. The agreement must provide that permits issued by**
23 **local governments will be consistent with the highway plan and administra-**
24 **tive rules adopted by the department, with state statutes and with the local**
25 **transportation system plan acknowledged under ORS chapter 197. The de-**
26 **partment shall adopt rules specifying the circumstances under which au-**
27 **thority will be delegated to a local government.**

28 **“[(5)] (14) The department shall develop a program that allows a person**
29 **that might be affected by the issuance of the permit, but that is not the**
30 **owner of the property subject to the permit, to express concerns to the de-**

1 department prior to the issuance of the permit. For purposes of this subsection,
2 persons that might be affected by the issuance of the permit are the city or
3 county in which the road is located and any person that owns property ad-
4 jacent to the proposed access. Nothing in this subsection gives a city, county
5 or other person that might be affected standing to appeal any decision of the
6 department regarding granting of the permit.

7 **“SECTION 14. Appeals process for denial of approach permit. There**
8 **is created a set of dispute resolution procedures governing an appeal**
9 **of the Department of Transportation’s decision regarding an approach**
10 **permit. The procedures described in this section include but are not**
11 **necessarily limited to notice, guarantee of an impartial tribunal, bur-**
12 **den of proof and admission and weight of evidence, as follows:**

13 **“(1) All decisions by the department regarding approach permits are**
14 **appealable by the applicant or permit holder. An applicant or permit**
15 **holder may request a hearing. A hearing conducted under this sub-**
16 **section shall be conducted as a contested case hearing in accordance**
17 **with ORS chapter 183.**

18 **“(2) In addition to requesting a hearing under subsection (1) of this**
19 **section, an applicant or permit holder may request the following dis-**
20 **pute resolution procedures to resolve issues relating to the**
21 **department’s decision:**

22 **“(a) Collaborative discussion, as established by the department by**
23 **rule;**

24 **“(b) Review by an Access Management Dispute Review Board es-**
25 **tablished under section 15 of this 2011 Act; or**

26 **“(c) Both.**

27 **“(3) The time required for a collaborative discussion or review by**
28 **an Access Management Dispute Review Board process is in addition**
29 **to the 120 days required for the department’s final decision under ORS**
30 **374.312.**

1 “(4)(a) The department shall conduct a collaborative discussion
2 within 45 days of the date the department receives a request from an
3 applicant or permit holder for collaborative discussion unless the ap-
4 plicant or permit holder and the department agree to a longer amount
5 of time.

6 “(b) The department shall conduct a review by an Access Manage-
7 ment Dispute Review Board within 45 days of the date the department
8 receives a request for a review by an Access Management Dispute
9 Review Board from an applicant or permit holder unless the applicant
10 or permit holder and the department agree to a longer amount of time.

11 “(5) A request for a dispute resolution procedure shall stay the time
12 in which the department must issue a final decision for a concurrent
13 contested case hearing.

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

18 “(7) The decision pursuant to the collaborative discussion or the
19 Access Management Dispute Review Board to approve, modify or re-
20 verse the department’s decision to approve an application for an ap-
21 proach permit with conditions, to modify or require mitigation
22 measures of an existing approach permit or to deny an approach per-
23 mit is a settlement offer and is not a decision that may be appealed.

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

26 “SECTION 15. Access Management Dispute Review Board. (1) If the
27 applicant or permit holder of an approach permit requests a review
28 by an Access Management Dispute Review Board under section 14 of
29 this 2011 Act, the Department of Transportation shall appoint an Ac-
30 cess Management Dispute Review Board by selecting members for a

1 board consisting of any or all of following:

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

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

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

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

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

13 “(3) The director shall review the Access Management Dispute Re-
14 view Board’s findings and may approve, modify or reverse the
15 department’s original decision to approve an application for an ap-
16 proach permit with conditions, to modify or require mitigation meas-
17 ures for an existing approach permit or to deny the approach permit.

18 “(4) The director shall notify the applicant or permit holder in
19 writing of the department’s determination following a review by an
20 Access Management Dispute Review Board appointed under this sec-
21 tion.

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

24 “SECTION 17. Standards for approach permits. (1) When making a
25 decision to approve or deny an application for an approach permit
26 under ORS 374.312, the Department of Transportation shall apply, as
27 one of the standards, the standards in Table 1 for spacing between
28 private approaches on highway segments where the annual average
29 daily traffic is 5,000 or fewer motor vehicles:
30

“TABLE 1

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

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

“(b) The spacing standards for approaches on one-way highways or highways with a raised or depressed nontraversable median where only

1 a right-hand or left-hand turn into and from the approach is allowed
2 are one-half the spacing standards for highways where the annual av-
3 erage daily traffic is more than 5,000 motor vehicles as described in
4 Table 2.

5 “(c) Special transportation areas, access management plans, corri-
6 dor plans, interchange area management plans or interchange man-
7 agement areas, as defined by the department by rule, may have
8 spacing standards that take precedence over the spacing standards
9 described in Table 1.

10 “(d) For a signalized private approach, signal spacing standards es-
11 tablished by the department by rule supersede the spacing standards
12 described in Table 1.

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

15 “(A) A new approach permit is required under ORS 374.312.

16 “(B) Infill development or infill redevelopment occurs and spacing
17 and safety will be improved by moving in the direction of the spacing
18 standards described in Table 1.

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

22 “(f) The spacing standards for a statewide highway, regional high-
23 way or district highway that is classified as an expressway by the
24 Oregon Transportation Commission where the annual average daily
25 traffic is 5,000 or fewer motor vehicles are described in Tables 2 to 4.

26 “(2) When making a decision to approve or deny an application for
27 an approach permit, the department shall apply, as one of the stan-
28 dards, the standards in Table 2 for spacing between private approaches
29 on statewide highways where the annual average daily traffic is more
30 than 5,000 motor vehicles:

“TABLE 2

1
2
3
4
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14

	Expressway	Expressway		
Speed	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

15 **“(a) For spacing between private approaches, the spacing standards**
16 **described in Table 2 apply to the distance measured along the highway**
17 **from the center of an existing or proposed private approach to the**
18 **center of the nearest existing or proposed private approach on the**
19 **same side of the highway in both directions. For spacing between a**
20 **private and a public approach, the standard applies to the distance**
21 **measured in both directions along the highway from the center of an**
22 **existing or proposed private approach to the center of the nearest**
23 **intersection of the highway with a public approach or another state**
24 **highway.**

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

29 **“(c) Special transportation areas, access management plans, corri-**
30 **dor plans, interchange area management plans or interchange man-**

1 **agement areas, as defined by the department by rule, may have**
2 **spacing standards that take precedence over the spacing standards**
3 **described in Table 2.**

4 **“(d) For a signalized private approach, signal spacing standards es-**
5 **tablished by the department by rule supersede the spacing standards**
6 **described in Table 2.**

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

9 **“(A) A new approach permit is required under ORS 374.312.**

10 **“(B) Infill development or infill redevelopment occurs and spacing**
11 **and safety will be improved by moving in the direction of the spacing**
12 **standards described in Table 2.**

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

16 **“(f) The spacing standards described in Table 2 for a statewide**
17 **highway that is classified as an expressway by the commission also**
18 **apply to an expressway where the annual average daily traffic is 5,000**
19 **or fewer motor vehicles.**

20 **“(3) When making a decision to approve or deny an application for**
21 **an approach permit, the department shall apply, as one of the stan-**
22 **dards, the standards in Table 3 for the spacing between private ap-**
23 **proaches on regional highways where the annual average daily traffic**
24 **is more than 5,000 motor vehicles:**

25

26

“TABLE 3

27

28

“ _____

29

Expressway Expressway

30

Speed Rural Areas Urban Areas Rural Areas Urban Areas

	(miles per hour)	(distance in feet)	(distance in feet)	(distance in feet)	(distance in feet)
3					
4	55 or higher	5,280	2,640	990	990
5	50	5,280	2,640	830	830
6	40 & 45	5,280	2,640	750	500
7	30 & 35	-	-	600	350
8	25 & lower	-	-	450	250

9 “

10 **“(a) For spacing between private approaches, the spacing standards**
11 **described in Table 3 apply to the distance measured along the highway**
12 **from the center of an existing or proposed private approach to the**
13 **center of the nearest existing or proposed private approach on the**
14 **same side of the highway in both directions. For spacing between a**
15 **private and a public approach, the standard applies to the distance**
16 **measured in both directions along the highway from the center of an**
17 **existing or proposed private approach to the center of the nearest**
18 **intersection of the highway with a public approach or another state**
19 **highway.**

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

24 **“(c) Special transportation areas, access management plans, corri-**
25 **dor plans, interchange area management plans or interchange man-**
26 **agement areas, as defined by the department by rule, may have**
27 **spacing standards that take precedence over the spacing standards**
28 **described in Table 3.**

29 **“(d) For a signalized private approach, signal spacing standards es-**
30 **tablished by the department by rule supersede the spacing standards**

1 described in Table 3.

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

4 “(A) A new approach permit is required under ORS 374.312.

5 “(B) Infill development or infill redevelopment occurs and spacing
6 and safety will be improved by moving in the direction of the spacing
7 standards described in Table 3.

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

11 “(f) The spacing standards described in Table 3 for a regional high-
12 way that is classified as an expressway by the commission also applies
13 to an expressway where the annual average daily traffic is 5,000 or
14 fewer motor vehicles.

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

20
21 “TABLE 4

22
23 “

	Expressway		Expressway	
Speed	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	700	700
50	5,280	2,640	550	550

1	40 & 45	5,280	2,640	500	500
2	30 & 35	-	-	400	350
3	25 & lower	-	-	400	250

4 “

5 **“(a) For spacing between private approaches, the spacing standards**
6 **described in Table 4 apply to the distance measured along the highway**
7 **from the center of an existing or proposed private approach to the**
8 **center of the nearest existing or proposed private approach on the**
9 **same side of the highway in both directions. For spacing between a**
10 **private and a public approach, the standard applies to the distance**
11 **measured in both directions along the highway from the center of an**
12 **existing or proposed private approach to the center of the nearest**
13 **intersection of the highway with a public approach or another state**
14 **highway.**

15 **“(b) The spacing standards for approaches on one-way highways or**
16 **highways with a raised or depressed nontraversable median where only**
17 **a right-hand or left-hand turn into and from the approach is allowed**
18 **are one-half the spacing standards described in Table 4.**

19 **“(c) Special transportation areas, access management plans, corri-**
20 **dor plans, interchange area management plans or interchange man-**
21 **agement areas, as defined by the department by rule, may have**
22 **spacing standards that take precedence over the spacing standards**
23 **described in Table 4.**

24 **“(d) For a signalized private approach, signal spacing standards es-**
25 **tablished by the department by rule supersede the spacing standards**
26 **described in Table 4.**

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

- 29 **“(A) A new approach permit is required under ORS 374.312.**
- 30 **“(B) Infill development or infill redevelopment occurs and spacing**

1 and safety will be improved by moving in the direction of the spacing
2 standards described in Table 4.

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

6 “(f) The spacing standards described in Table 4 for a district high-
7 way that is classified as an expressway by the commission also apply
8 to an expressway where the annual average daily traffic is 5,000 or
9 fewer motor vehicles.

10 “(5)(a) The department may require channelization as a condition
11 for the approval of an approach permit if any of the following condi-
12 tions exist:

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

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

19 “(C) The product of the number of average daily trips at the prop-
20 erty multiplied by the annual average daily traffic on the highway is
21 equal to or greater than the products listed in the table below:

22
23 “TABLE 5

24
25 “

26 Product of Property’s Average Daily Trips Multiplied by the
27 Abutting Highway’s Annual Average Daily Traffic (Millions)

28

29	Number of	Speed	Speed	Speed	Speed
30	highway	25 mph	30-35	40-45	50 mph

	lanes	or lower	mph	mph	or higher
3	2 lanes	5.1	3.9	1.8	1.3
4	4 lanes	10.2	7.8	3.6	2.6

5 “

7 **“(b) The number of average daily trips at a property may be deter-**
8 **mined by a traffic impact analysis or from national standards, as de-**
9 **termined by the department. A vehicle that enters and exits a property**
10 **has made two trips.**

11 **“(c) The annual average daily traffic for a state highway may be**
12 **determined from the most recent edition of the transportation volume**
13 **tables published annually by the department. The department shall**
14 **post the transportation volume tables on the department’s website.**

15 **“(6) As used in this section:**

16 **“(a) ‘Infill development’ means the development of vacant or rem-**
17 **nant land that has been passed over by previous development and that**
18 **is consistent with zoning. Infill occurs in urban areas. It may also**
19 **occur in rural areas on commercially or industrially zoned land where**
20 **the land has been developed into an urban block pattern including a**
21 **local street network where the highway speed is 45 miles per hour or**
22 **less.**

23 **“(b) ‘Infill redevelopment’ means changing an existing development**
24 **including replacement, remodeling or reuse of existing structures to**
25 **accommodate new development that is consistent with current zoning.**
26 **Redevelopment occurs in urban areas. It may also occur in rural areas**
27 **on commercially or industrially zoned land where the land has been**
28 **developed into an urban block pattern including a local street network**
29 **and where the highway speed is 45 miles per hour or less.**

30 **“(c) ‘Rural’ means the area outside an urban growth boundary.**

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

3 “(e) ‘Urban’ means the area within an urban growth boundary.

4 “SECTION 18. Traffic impact analysis. (1) Except as provided in
5 subsection (2) of this section, the Department of Transportation may
6 require a person applying for an approach permit under ORS 374.312
7 to submit a traffic impact analysis.

8 “(2) The department may not require a person applying for an ap-
9 proach permit to submit a traffic impact analysis when:

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

12 “(b) The average daily volume of trips at the property is more than
13 400 but fewer than 1,001 trips if:

14 “(A) The highway is a two-lane highway with fewer than 5,000 mo-
15 tor vehicles in annual average daily traffic;

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

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

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

22 “(3) The average daily trips at a property may be determined using
23 nationally recognized standards, as adopted by the department by rule.

24 “(4) The number of motor vehicles in annual average daily traffic
25 for a state highway may be determined from the most recent edition
26 of the transportation volume tables published annually by the depart-
27 ment. The department shall post the transportation volume tables on
28 the department’s website.

29 “SECTION 19. Collaboration with highway users. (1) The Depart-
30 ment of Transportation shall work collaboratively with highway users

1 on all proposals to install a raised or depressed barrier on two-lane
2 segments of state highways.

3 “(2) As used in this section ‘highway users’ includes representatives
4 of the freight industry and automobile users and may include repre-
5 sentatives of local government and other transportation stakeholders,
6 as appropriate.

7 “SECTION 20. Highway classification. The Oregon Transportation
8 Commission shall periodically review, not less often than every six
9 years, the classification of state highways, including the designation
10 of highway segments as expressways, as a part of its comprehensive,
11 long-range transportation plan developed pursuant to ORS 184.618 to
12 ensure that the classifications for the highways are appropriate to
13 their uses.

14 “SECTION 21. ORS 373.015 is amended to read:

15 “373.015. (1) Except as provided in section 23 of this 2011 Act, before
16 the Department of Transportation acquires within any incorporated city any
17 new rights of way, or relocates or abandons any existing state highway
18 within any incorporated city, the department shall [*by letter*] notify the
19 mayor of [*such*] the city by letter of the action contemplated by the de-
20 partment.[, *and*,]

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

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

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

3 **“SECTION 23. (1) When it is determined by the Department of**
4 **Transportation and a city that it is in the best interest of highway**
5 **users to abandon a segment of the state highway, the department and**
6 **the city may enter into an agreement to transfer jurisdiction and**
7 **ownership of the segment of state highway to the city.**

8 **“(2) In addition to funds provided to the city under ORS 366.800, the**
9 **department may agree to provide funds annually to the city for the**
10 **continued construction, repair, maintenance and improvement of the**
11 **abandoned state highway from the State Highway Fund.**

12 **“(3) The agreement between the department and the city accepting**
13 **jurisdiction must contain provisions to ensure that freight movement**
14 **on the highway will not be restricted beyond the limits set in the**
15 **agreement, unless the Oregon Transportation Commission, in consul-**
16 **tation with the freight industry and the city, concludes that the re-**
17 **striction is necessary for the safety of the highway users. Nothing in**
18 **this section prevents a city from taking emergency action to protect**
19 **safety or place weight restrictions on a structure that is failing or**
20 **otherwise damaged.**

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

22 **“366.290. (1) The Department of Transportation may select, locate, estab-**
23 **lish, designate, improve and maintain out of the highway fund a system of**
24 **state highways, and for that purpose may, by mutual agreement with several**
25 **counties, select county roads or public roads. By an appropriate order en-**
26 **tered in its records the department may designate and adopt such roads as**
27 **state highways. Thereafter the construction, improvement, maintenance and**
28 **repair of such roads shall be under the jurisdiction of the department.**

29 **“(2) In the selection of highways or roads to [comprise] be included in**
30 **the state highway system the department shall give consideration to and**

1 shall select such county roads or public roads as will contribute to and best
2 promote the completion of an adequate system of state highways.

3 “(3)(a) With the written [*consent*] **agreement** of the county in which a
4 particular highway or part thereof is located, the department may, when in
5 its opinion the interests of [*the state*] **highway users** will be best served,
6 eliminate from the state highway system any road, [*or highway or part*
7 *thereof. Thereafter*] **highway, road segment or highway segment**. The
8 road, [*or*] highway or [*part thereof eliminated shall become*] **segment be-**
9 **comes** a county road or highway, and the construction, repair, maintenance
10 or improvement, and jurisdiction over [*such highway shall*] **the road or**
11 **highway will** be exclusively under the county in which [*such highway or*
12 *road*] **the road or highway** is located.

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

18 “(c) **The agreement between the department and the county ac-**
19 **cepting jurisdiction must contain provisions to ensure that freight**
20 **movement on the highway will not be restricted beyond the limits set**
21 **in the agreement, unless the Oregon Transportation Commission, in**
22 **consultation with the freight industry and the county, concludes that**
23 **the restriction is necessary for the safety of the highway users. Noth-**
24 **ing in this section prevents a county from taking emergency action**
25 **to protect safety or place weight restrictions on a structure that is**
26 **failing or otherwise damaged.**

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

1 **SECTION 25.** ORS 811.430 is amended to read:

2 “811.430. (1) A person commits the offense of driving on a highway divider
3 if the person drives a vehicle over, across or within a dividing space, barrier
4 or section that is an intervening space, physical barrier or clearly indicated
5 dividing section so constructed as to impede vehicular traffic and that di-
6 vides a highway into two or more roadways.

7 **“(2) For purposes of this section, a ‘dividing space’ includes pave-
8 ment markings of solid double yellow lines with yellow cross-hatching
9 between the double yellow lines.**

10 “[(2)] (3) This section does not apply when the movement of a vehicle that
11 is otherwise prohibited by this section is made:

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

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

14 “[(3)] (4) The offense described in this section, driving on a highway di-
15 vider, is a Class B traffic violation.

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

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

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

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

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

30 **“(b) The Speaker of the House of Representatives shall appoint**

1 **three members from among members of the House of Representatives.**

2 **“(c) The Governor shall appoint five members as follows:**

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

5 **“(B) One member who is a representative of the development com-**
6 **munity;**

7 **“(C) One member who is representative of local government; and**

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

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

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

16 **“(a) Ongoing progress in proposing legislation to codify, clarify and**
17 **bring consistency to issuance of approach permits based on objective**
18 **standards as required under section 2, chapter 31, Oregon Laws 2010.**

19 **“(b) Implementation of this section and sections 2, 14 to 20, 22 and**
20 **23 of this 2011 Act and the amendments to ORS 366.290, 373.015, 374.305,**
21 **374.312 and 811.430 by sections 3, 13, 21, 24 and 25 of this 2011 Act.**

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

24 **“(5) A majority of the members of the task force constitutes a**
25 **quorum for the transaction of business.**

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

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

30 **“(8) If there is a vacancy for any cause, the appointing authority**

1 shall make an appointment to become immediately effective.

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

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

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

8 “(12) Notwithstanding ORS 171.072, members of the task force who
9 are members of the Legislative Assembly are not entitled to mileage
10 expenses or a per diem and serve as volunteers on the task force.
11 Other members of the task force are not entitled to compensation or
12 reimbursement for expenses and serve as volunteers on the task force.

13 “(13) The task force shall report its findings and recommendations
14 on access management to the interim committees related to trans-
15 portation each year in the manner provided by ORS 192.245 no later
16 than December 1.

17 “SECTION 28. Section 2, chapter 31, Oregon Laws 2010, as amended
18 by section 26 of this 2011 Act, and section 27 of this 2011 Act are re-
19 pealed on January 2, 2016.

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

24 “SECTION 30. The section captions used in this 2011 Act are pro-
25 vided only for the convenience of the reader and do not become part
26 of the statutory law of this state or express any legislative intent in
27 the enactment of this 2011 Act.

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

