

# House Bill 2819

Sponsored by Representative SCHAUFLEER (at the request of Oregon Agricultural Alliance)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies requirements for land use and land use planning on airports or near airport boundaries. Requires metropolitan service districts and local governments with population of 25,000 or more, at periodic review, to inventory industrial and commercial lands for public use airports and bring 20-year supply within urban growth boundary. Modifies priority for inclusion of land within urban growth boundary. Establishes requirements for division of land for residential airparks. Prohibits state or local government from issuing waiver for land use regulations in public use airport planning area.

## A BILL FOR AN ACT

1  
2 Relating to land use in vicinity of airports; creating new provisions; and amending ORS 197.298 and  
3 836.605.

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

5 **SECTION 1.** ORS 836.605 is amended to read:

6 836.605. As used in ORS 836.600 to 836.630:

7 (1) "Aircraft" means helicopters and airplanes but not hot air balloons or ultralights.

8 (2) "Airports" means the strip of land used for taking off and landing aircraft, together with all  
9 adjacent land used in 1994 in connection with the aircraft landing or taking off from the strip of  
10 land, including but not limited to land used for the existing commercial and recreational airport uses  
11 and activities as of December 31, 1994.

12 (3) "Public use airport" has the meaning given that term by the Oregon Department of  
13 Aviation by rule.

14 (4) "Public use airport planning area" means land within a three-mile radius from the  
15 centerpoint of a glide path of a public use airport that is located in or adjacent to an urban  
16 growth boundary, as defined in ORS 195.060.

17 (5) "Residential airpark" means a residential subdivision or partition, as those terms are  
18 defined in ORS 92.010, within an airport boundary that allows aircraft to taxi directly from  
19 the property to an airport runway.

20 **SECTION 2.** Sections 3, 4 and 5 of this 2009 Act are added to and made a part of ORS  
21 836.600 to 836.630.

22 **SECTION 3.** (1) The provisions of this section apply to metropolitan service district re-  
23 gional framework plans and local government comprehensive plans for lands within the ur-  
24 ban growth boundary of a city that is located outside of a metropolitan service district and  
25 has a population of 25,000 or more.

26 (2) The Land Conservation and Development Commission may establish a set of factors  
27 under which additional cities are subject to the provisions of this section. In establishing the  
28 set of factors described in this subsection, the commission shall consider the size of the city,

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the rate of population growth of the city or the proximity of the city to another city with a  
 2 population of 25,000 or more or to a metropolitan service district.

3 (3) At periodic review pursuant to ORS 197.628 to 197.650 or at any other legislative re-  
 4 view of a comprehensive plan or regional framework plan that concerns the urban growth  
 5 boundary and requires the application of a statewide planning goal relating to transportation  
 6 planning, a local government shall demonstrate that its comprehensive plan or regional  
 7 framework plan provides sufficient developable lands within the urban growth boundary es-  
 8 tablished pursuant to statewide planning goals to accommodate estimated needs for com-  
 9 mercial and industrial land suitable for public use airports for the next 20 years. The 20-year  
 10 period commences on the date initially scheduled for completion of the periodic or legislative  
 11 review.

12 (4) In performing the duties under subsection (3) of this section, a local government  
 13 shall:

14 (a) Inventory the supply of developable lands within the urban growth boundary and de-  
 15 termine the capacity of commercial and industrial land suitable for public use airports; and

16 (b) Conduct an analysis of the need for the next 20 years for public use airport lands, in  
 17 accordance with a statewide land use planning goal relating to transportation planning.

18 (5) Using the analysis conducted under subsection (4)(b) of this section, the local gov-  
 19 ernment shall determine the overall density and mix of industrial and commercial uses of  
 20 public use airport planning areas and residential airparks to meet transportation needs over  
 21 the next 20 years. The local government, as part of its periodic review, shall adopt measures  
 22 that demonstrably increase the likelihood that commercial and industrial uses for public use  
 23 airports will occur at the density and the mix required to meet transportation needs over the  
 24 next 20 years.

25 **SECTION 4.** (1) A residential airpark may not include structures that exceed 35 feet in  
 26 height or natural objects that exceed 50 feet in height unless the city or county with land  
 27 use jurisdiction issues a variance after the Federal Aviation Administration and the Oregon  
 28 Department of Aviation determine that the structure or natural object does not obstruct or  
 29 interfere with the airspace required for the flight of aircraft in landing or taking off at the  
 30 airport.

31 (2) A residential airpark may not include uses that:

32 (a) Create electrical interference with navigational signals or radio communication be-  
 33 tween the airport and aircraft;

34 (b) Make it difficult for pilots to use the airport;

35 (c) Impair visibility in the vicinity of the airport;

36 (d) Create bird strike hazards; or

37 (e) Otherwise materially endanger or interfere with the operation of aircraft landing,  
 38 taking off or maneuvering in order to use the airport including, but not limited to:

39 (A) Buildings with reflective glass or other reflective or glare-producing exterior sur-  
 40 faces;

41 (B) High intensity recreation-type lights;

42 (C) Smoke;

43 (D) Antennas;

44 (E) Microwave towers;

45 (F) Ham radio towers;

1 (G) Open water impoundments;

2 (H) Land fills, garbage dumps or incinerators; or

3 (I) High tension transmission lines.

4 (3) A lot or parcel created in a residential airpark must have:

5 (a) A minimum of 75 feet of frontage on a public street; and

6 (b) A rear property line that abuts an existing or proposed taxiway.

7 (4) Development in a residential airpark is limited to:

8 (a) Residential dwellings;

9 (b) Accessory uses and structures; and

10 (c) Airplane hangers, that may not be used for residential purposes and that may be sited  
11 only on lots or parcels that contain a residential dwelling.

12 (5) The density of residential development in a residential airpark may not exceed three  
13 dwelling units per acre.

14 (6) In approving a land division under ORS 92.010 to 92.190, the governing body of a  
15 county or city, or its designee, shall require as a condition of approval that the owner of a  
16 lot or parcel sign and record in the deed records for the county in which the lot or parcel  
17 is located an irrevocable deed restriction that prohibits the owner and the owner's succes-  
18 sors in interest from pursuing a cause of action or claim of relief alleging an injury or  
19 damages caused by noise, fumes, dust, fuel, fuel particles or other effects caused by the op-  
20 eration of aircraft landing, taking off or maneuvering on or near a residential airpark, not  
21 including the physical impact of aircraft or parts of aircraft.

22 **SECTION 5.** A state body or a local government body may not issue a waiver, as defined  
23 in ORS 195.300, for private real property located in a public use airport planning area.

24 **SECTION 6.** ORS 197.298 is amended to read:

25 197.298. (1) In addition to any requirements established by rule addressing urbanization, land  
26 may not be included within an urban growth boundary except under the following priorities:

27 (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or met-  
28 ropolitan service district action plan.

29 (b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of  
30 land needed, second priority is land adjacent to an urban growth boundary that is identified in an  
31 acknowledged comprehensive plan as an exception area or nonresource land. Second priority may  
32 include resource land that is completely surrounded by exception areas unless such resource land  
33 is high-value farmland as described in ORS 215.710.

34 (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the  
35 amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247  
36 (1991 Edition) or land within 300 feet of a runway of a public use airport, as defined in section  
37 2 of this 2009 Act, that is located within or adjacent to an urban growth boundary.

38 (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the  
39 amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan  
40 for agriculture or forestry, or both.

41 (2) Higher priority shall be given to land of lower capability as measured by the capability  
42 classification system or by cubic foot site class, whichever is appropriate for the current use.

43 (3) Land of lower priority under subsection (1) of this section may be included in an urban  
44 growth boundary if land of higher priority is found to be inadequate to accommodate the amount  
45 of land estimated in subsection (1) of this section for one or more of the following reasons:

1 (a) Specific types of identified land needs cannot be reasonably accommodated on higher priority  
2 lands;

3 (b) Future urban services could not reasonably be provided to the higher priority lands due to  
4 topographical or other physical constraints; or

5 (c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion  
6 of lower priority lands in order to include or to provide services to higher priority lands.

7 **SECTION 7. The amendments to ORS 197.298 by section 6 of this 2009 Act apply to a final**  
8 **decision to amend an urban growth boundary on or after the effective date of this 2009 Act.**

9

---