

House Bill 3069

Sponsored by COMMITTEE ON AGRICULTURE, NATURAL RESOURCES AND RURAL COMMUNITIES

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**.

Limits development of destination resort within three miles of Metolius River Basin. Requires development sited within three miles of Metolius River Basin on land not owned by federally recognized Indian tribe to be sustainable eco-community.

Establishes standards for sustainable eco-community.

A BILL FOR AN ACT

1
2 Relating to visitor-oriented development; creating new provisions; and amending ORS 197.455.

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

4 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 197.435 to**
5 **197.467.**

6 **SECTION 2. (1) The Legislative Assembly finds that:**

7 (a) **The Metolius River Basin, a subbasin of the Deschutes River Basin, is an invaluable**
8 **and highly sensitive natural area that is ecologically and scientifically significant because of**
9 **its unique hydrogeologic characteristics, wetlands and ground water resources.**

10 (b) **The Metolius River was added to the national wild and scenic rivers system in the**
11 **Omnibus Oregon Wild and Scenic Rivers Act of 1988 because the federal government deter-**
12 **mined the river to be remarkable in all areas of evaluation.**

13 (c) **The Metolius River and its tributaries are home to sensitive and threatened species**
14 **of fish, including redband trout and bull trout, and the Metolius River Basin is critical to the**
15 **restoration of anadromous fish populations, including spring Chinook, sockeye and summer**
16 **steelhead.**

17 (d) **The basin contains sensitive ranges for wintering deer and elk.**

18 (e) **The basin holds significant cultural, economic, religious and historical value for Na-**
19 **tive American tribes.**

20 (f) **The basin features outstanding scenic views and sites.**

21 (g) **Recognizing the unique values and special qualities of the region's natural resources**
22 **and spiritual values, the United States Forest Service, in the Deschutes National Forest Land**
23 **and Resource Management Plan of 1990, designated 86,000 acres in the basin as the Metolius**
24 **Conservation Area, to be managed subject to heightened standards of protection.**

25 (h) **The protection of the basin's natural resources, wildlife habitat and historical, cul-**
26 **tural and scenic values from incompatible forms of development is a matter of utmost im-**
27 **portance and concern to the State of Oregon.**

28 (i) **Declining federal and state budgets are unable to meet the demands for stewarding**
29 **important natural resources and ecosystems.**

30 (j) **Natural resource and related values in the basin can be furthered by limiting new**

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 development to sustainable communities and education centers that serve to restore and
2 enhance natural resource values while advancing the following sustainable practices:

- 3 (A) Sustainable development and building practices;
- 4 (B) Sustainable land stewardship; and
- 5 (C) Sustainable living practices.

6 (k) It is a priority in Oregon to facilitate a new form of low impact development through
7 eco-communities described in this section in which the following objectives are achieved:

8 (A) Increased economic development is generated in areas that are in need of long-term
9 job creation;

10 (B) The state's recognition as a leader in sustainability and natural resource stewardship
11 is enhanced;

12 (C) Perpetual funding for stewardship of natural resources is provided; and

13 (D) Recreational assets are accessible and institutions that will conserve their health
14 during long-term use are created.

15 (2) An eco-community is a low impact, visitor-oriented outdoor community that:

16 (a) Must be a minimum of 200 acres and a maximum of 640 acres in size.

17 (b) In lieu of the spending requirement of ORS 197.445 (3), requires, as a condition of
18 approval to be confirmed by the county in which the community is located within five years
19 after the construction of the first 100 units of overnight lodging, the developer to spend:

20 (A) At least \$3 million on off-site resource enhancement or restoration projects located
21 within the Metolius River Basin.

22 (B) At least \$4 million in the manner described in ORS 197.445 (3).

23 (c) Does not include areas designated as containing significant natural resources in an
24 acknowledged comprehensive plan pursuant to a goal relating to open spaces, scenic and
25 historic areas and natural resources.

26 (d) Does not include a golf course or related facilities.

27 (e) Notwithstanding ORS 197.445 (4)(b)(A) to (D):

28 (A) May not exceed a total of 180 units of overnight lodging.

29 (B) Must provide for at least 20 percent of the planned overnight lodging units to be
30 constructed prior to the closure of sale of individual lots or units.

31 (C) Must provide for at least 30 percent of the remaining planned overnight lodging units
32 to be constructed or guaranteed through surety bonding or equivalent financial assurance
33 within five years of the initial lot sales.

34 (D) Must provide for the remaining 50 percent of the planned overnight lodging units to
35 be constructed or guaranteed through surety bonding or equivalent financial assurances
36 within 10 years of the initial lot sales.

37 (f) Consists of land and buildings developed and operated in a sustainable manner that
38 meets the following criteria:

39 (A) If possible, areas that require irrigation must use reclaimed water. When fully de-
40 veloped, the eco-community must use reclaimed water as the primary source of water needed
41 for irrigation.

42 (B) Facilities for snowmobiling or other motorized recreational activities are not per-
43 mitted.

44 (C) The 50 percent of the eco-community dedicated to permanent open space under ORS
45 197.445 (2) must be contiguous and demonstrate the biological viability of the site as habitat

1 or provide ecosystem services to the area.

2 (D) Significant natural resource functions and values on and adjacent to the site are
3 preserved.

4 (E) Impervious surfaces, including rooftops and paved roads, trails and parking areas,
5 do not exceed 35 percent of the total site area.

6 (F) Infrastructure uses the highest quality, lowest energy natural treatment systems
7 available that meet regulatory requirements.

8 (G) Potable water usage achieves a 20 percent reduction below standard code built de-
9 velopments. Reclaimed water usage for nonpotable water needs can account for the entire
10 required reduction.

11 (H) Use of recycled water must be allowed in flushing toilets in residential and commer-
12 cial buildings.

13 (I) Alternative transportation options shall be programmed for both on-site and off-site
14 circulation.

15 (J) Stormwater must be managed on-site. Off-site runoff must be limited to predevelop-
16 ment rates.

17 (K) Commercial and other nonresidential buildings must be designed and constructed to
18 meet regionally or nationally recognized design standards for sustainable or green design
19 that are acceptable to the permitting authority.

20 (L) Residential buildings must be designed and constructed to meet regionally or na-
21 tionally recognized design standards for sustainable design acceptable to the permitting au-
22 thority. Developers must achieve certification for all buildings, with at least 50 percent of
23 the buildings achieving a top tier rating under the rating system selected.

24 (M) A resident and guest education program must afford opportunities for at least
25 monthly interaction on environmentally responsible lifestyles and the benefit of environ-
26 mentally responsible lifestyles to the region.

27 (N) Additional housing capable of housing at least 50 percent of the peak season em-
28 ployees must be provided on-site.

29 (3) An eco-community must:

30 (a) Develop an environmental operations manual that defines core practices for operating
31 the eco-community, including:

32 (A) Waste reduction, recycling and diversion.

33 (B) Cleaning and site maintenance practices.

34 (C) Staff education practices.

35 (D) Commitment of the eco-community to environmental stewardship.

36 (b) Establish a conservation stewardship organization, a separate nonprofit entity funded
37 through income generated by the development, that is charged with:

38 (A) Development of a baseline study that establishes the current level and condition of
39 the local environment. As part of the study, the organization must develop a long-term
40 stewardship plan that targets the net creation and rehabilitation of habitat, on-site and off-
41 site.

42 (B) Ongoing review, selection and management of habitat restoration projects that ex-
43 pand on the goals of the long-term stewardship plan.

44 (C) Education and outreach on environmental stewardship.

45 (c) Organize and manage volunteers working to conserve local resources.

1 **(d) Monitor performance of energy, water and site development standards versus annual**
2 **practice.**

3 **(e) Audit and publish an annual report of the eco-community's performance results for**
4 **the prior year.**

5 **SECTION 3.** ORS 197.455 is amended to read:

6 197.455. (1) A destination resort must be sited on lands mapped as eligible for destination resort
7 siting by the affected county. The county may not allow destination resorts approved pursuant to
8 ORS 197.435 to 197.467 to be sited in any of the following areas:

9 (a) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or
10 more unless residential uses are limited to those necessary for the staff and management of the re-
11 sort.

12 (b)(A) On a site with 50 or more contiguous acres of unique or prime farmland identified and
13 mapped by the United States Natural Resources Conservation Service, or its predecessor agency.

14 (B) On a site within three miles of a high value crop area unless the resort complies with the
15 requirements of ORS 197.445 (6) in which case the resort may not be closer to a high value crop
16 area than one-half mile for each 25 units of overnight lodging or fraction thereof.

17 (c) On predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State
18 Forestry Department, which are not subject to an approved goal exception.

19 (d) In the Columbia River Gorge National Scenic Area as defined by the Columbia River Gorge
20 National Scenic Act, P.L. 99-663.

21 (e) In an especially sensitive big game habitat area as determined by the State Department of
22 Fish and Wildlife in July 1984 or as designated in an acknowledged comprehensive plan.

23 **(f) Within three miles of the Metolius River Basin unless:**

24 **(A) The site is owned by an Indian tribe as defined in ORS 391.802; or**

25 **(B) If the site is not owned by an Indian tribe, the proposed development is an eco-**
26 **community as described in section 2 of this 2009 Act.**

27 (2) In carrying out subsection (1) of this section, a county shall adopt, as part of its compre-
28 hensive plan, a map consisting of eligible lands within the county. The map must be based on rea-
29 sonably available information and may be amended pursuant to ORS 197.610 to 197.625, but not more
30 frequently than once every 30 months. The county shall develop a process for collecting and pro-
31 cessing concurrently all map amendments made within a 30-month planning period. A map adopted
32 pursuant to this section shall be the sole basis for determining whether tracts of land are eligible
33 for destination resort siting pursuant to ORS 197.435 to 197.467.

34 **SECTION 4. Section 2 of this 2009 Act and the amendments to ORS 197.455 by section 3**
35 **of this 2009 Act apply to a proposed development under ORS 197.435 to 197.467 that is ap-**
36 **proved under ORS 215.402 to 215.438 or 227.160 to 227.186 on or after the effective date of this**
37 **2009 Act.**

38