

House Bill 3224

Sponsored by COMMITTEE ON LAND USE

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 provisions for siting destination resorts.
Modifies standards for destination resorts.
Requires county to ensure that destination resort is compatible with site and area of impact.

A BILL FOR AN ACT

1
2 Relating to destination resorts; amending ORS 197.435, 197.445, 197.455, 197.460 and 197.462.

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

4 **SECTION 1.** ORS 197.435 is amended to read:

5 197.435. As used in ORS 197.435 to 197.467:

6 (1) "Developed recreational facilities" means improvements constructed for the purpose of re-
7 creation and may include but *[are]* **is** not limited to golf courses, tennis courts, swimming pools,
8 marinas, ski runs and bicycle paths.

9 (2) "High value crop area" means an area in which there is a concentration of commercial farms
10 capable of producing crops or products with a minimum gross value of \$1,000 per acre per year.
11 [*These crops and products include field crops, small fruits, berries, tree fruits, nuts or vegetables,*
12 *dairying, livestock feedlots or Christmas trees as these terms are used in the 1983 County and State*
13 *Agricultural Estimates prepared by the Oregon State University Extension Service.*] The "high value
14 crop area" designation is used for the purpose of minimizing conflicting uses in resort siting and
15 does not revise the requirements of an agricultural land goal or administrative rules interpreting the
16 goal.

17 [(3) "*Map of eligible lands*" means a map of the county adopted pursuant to ORS 197.455.]

18 [(4) (3) "Open space" means any land that is retained in a substantially natural condition [*or*
19 *is improved for recreational uses such as golf courses, hiking or nature trails or equestrian or bicycle*
20 *paths*] or is specifically required to be protected by a conservation easement. Open spaces may in-
21 clude ponds, lands protected as important natural features, lands preserved for farm or forest use
22 and lands used as buffers. Open space does not include residential lots or yards, streets or parking
23 areas.

24 [(5) (4) "Overnight lodgings" means[:]

25 [(a) *With respect to lands not identified in paragraph (b) of this subsection,*] permanent, separately
26 rentable accommodations that are not available for residential use, including hotel or motel rooms,
27 cabins and time-share units. Individually owned units may be considered overnight lodgings if they
28 are available for overnight rental use by the general public for at least 45 weeks per calendar year
29 through a central reservation and check-in service. Tent sites, recreational vehicle parks, manufac-
30 tured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings
31 for the purpose of this definition.

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 *[(b) With respect to lands in eastern Oregon, as defined in ORS 321.805, permanent, separately*
 2 *rentable accommodations that are not available for residential use, including hotel or motel rooms,*
 3 *cabins and time-share units. Individually owned units may be considered overnight lodgings if they are*
 4 *available for overnight rental use by the general public for at least 38 weeks per calendar year through*
 5 *a central reservation system operated by the destination resort or by a real estate property manager,*
 6 *as defined in ORS 696.010. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory*
 7 *rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this defi-*
 8 *inition.]*

9 [(6)] (5) “Self-contained development” means a development for which community sewer and
 10 water facilities are provided on-site and are limited to meet the needs of the development or are
 11 provided by existing public sewer or water service as long as all costs related to service extension
 12 and any capacity increases are borne by the development. A “self-contained development” must have
 13 developed recreational facilities provided on-site.

14 [(7)] (6) “Tract” means a lot or parcel or more than one contiguous lot or parcel in a single
 15 ownership. A tract may include property that is not included in the proposed site for a destination
 16 resort if the property to be excluded is on the boundary of the tract and constitutes less than 30
 17 percent of the total tract.

18 [(8)] (7) “Visitor-oriented accommodations” means overnight lodging, restaurants and meeting
 19 facilities that are designed to and provide for the needs of visitors rather than year-round residents.

20 **SECTION 2.** ORS 197.445 is amended to read:

21 197.445. A destination resort is a self-contained development that provides for visitor-oriented
 22 accommodations and developed recreational facilities in a setting with high natural amenities. To
 23 qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, a
 24 proposed development must meet the following standards:

25 (1) The resort must be located on a site of 160 acres or more except within two miles of the
 26 ocean shoreline where the site shall be 40 acres or more.

27 (2) At least 50 percent of the site must be dedicated to permanent open space, excluding streets
 28 and parking areas.

29 (3) At least \$7 million must be spent on improvements for on-site developed recreational facili-
 30 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and
 31 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

32 (4) Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100
 33 persons and 150 separate rentable units for overnight lodging shall be provided. However, the
 34 rentable overnight lodging units may be phased in as follows:

35 *[(a) On lands not described in paragraph (b) of this subsection:]*

36 [(A)] (a) A total of 150 units of overnight lodging must be provided.

37 [(B)] (b) At least 75 units of overnight lodging, not including any individually owned homes, lots
 38 or units, must be constructed *[or guaranteed through surety bonding or equivalent financial*
 39 *assurance]* prior to the closure of sale of individual lots or units.

40 [(C)] (c) The remaining overnight lodging units must be provided as individually owned lots or
 41 units subject to deed restrictions that limit their use to use as overnight lodging units. The deed
 42 restrictions may be rescinded when the resort has constructed 150 units of permanent overnight
 43 lodging as required by this subsection.

44 [(D)] (d) The number of units approved for residential sale may not be more than *[two units]* **one**
 45 **unit** for *[each unit]* **every two units** of permanent overnight lodging provided under this

1 [paragraph] **subsection.**

2 [(E)] (e) The development approval must provide for the construction of other required overnight
3 lodging units within five years of the initial lot sales.

4 [(b) *On lands in eastern Oregon, as defined in ORS 321.805:*]

5 [(A) *A total of 150 units of overnight lodging must be provided.*]

6 [(B) *At least 50 units of overnight lodging must be constructed prior to the closure of sale of in-*
7 *dividual lots or units.*]

8 [(C) *At least 50 of the remaining 100 required overnight lodging units must be constructed or*
9 *guaranteed through surety bonding or equivalent financial assurance within five years of the initial lot*
10 *sales.*]

11 [(D) *The remaining required overnight lodging units must be constructed or guaranteed through*
12 *surety bonding or equivalent financial assurances within 10 years of the initial lot sales.*]

13 [(E) *The number of units approved for residential sale may not be more than 2-1/2 units for each*
14 *unit of permanent overnight lodging provided under this paragraph.*]

15 [(F) *If the developer of a resort guarantees the overnight lodging units required under subpara-*
16 *graphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance,*
17 *the overnight lodging units must be constructed within four years of the date of execution of the surety*
18 *bond or other equivalent financial assurance.*]

19 (5) Commercial uses allowed are limited to types and levels of use necessary to meet the needs
20 of visitors to the development. Industrial uses of any kind are not permitted.

21 (6) In lieu of the standards in subsections (1), (3) and (4) of this section, the standards set forth
22 in subsection (7) of this section apply to a destination resort:

23 (a) On land that is not defined as agricultural or forest land under any statewide planning goal;

24 (b) On land where there has been an exception to any statewide planning goal on agricultural
25 lands, forestlands, public facilities and services and urbanization; or

26 (c) On such secondary lands as the Land Conservation and Development Commission deems ap-
27 propriate.

28 (7) The following standards apply to the [provisions of] **destination resorts described in** sub-
29 section (6) of this section:

30 (a) The resort must be located on a site of 20 acres or more.

31 (b) At least \$2 million must be spent on improvements for on-site developed recreational facili-
32 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and
33 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

34 (c) At least 25 units, but not more than 75 units, of overnight lodging must be provided.

35 (d) [*Restaurant and meeting room*] **Restaurants and meeting rooms** with at least one seat for
36 each unit of overnight lodging must be provided.

37 (e) Residential uses must be limited to those necessary for the staff and management of the re-
38 sort.

39 (f) The governing body of the county or its designee has reviewed the resort proposed under this
40 subsection and has determined that the primary purpose of the resort is to provide lodging and other
41 services oriented to a recreational resource which can only reasonably be enjoyed in a rural area.
42 Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing
43 stream.

44 (g) The resort must be constructed and located so that it is not designed to attract highway
45 traffic. Resorts may not use any manner of outdoor advertising signing except:

1 (A) Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and

2 (B) On-site identification and directional signs.

3 (8) Spending required under subsections (3) and (7) of this section is stated in 1993 dollars. The
4 spending required shall be adjusted to the year in which calculations are made in accordance with
5 the United States Consumer Price Index.

6 (9) When making a land use decision authorizing construction of a destination resort in eastern
7 Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall require
8 the resort developer to provide an annual accounting to document compliance with the overnight
9 lodging standards of this section. The annual accounting requirement commences one year after the
10 initial lot or unit sales. The annual accounting must contain:

11 (a) Documentation showing that the resort contains a minimum of 150 permanent units of over-
12 night lodging or, during the phase-in period, documentation showing the resort is not yet required
13 to have constructed 150 units of overnight lodging.

14 (b) Documentation showing that the resort meets the lodging ratio described in subsection (4)
15 of this section.

16 (c) For a resort counting individually owned units as qualified overnight lodging units, the
17 number of weeks that each overnight lodging unit is available for rental to the general public as
18 described in ORS 197.435.

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

20 197.455. (1) A destination resort must be sited on lands mapped as eligible for destination resort
21 siting by the affected county. The county may not allow destination resorts approved pursuant to
22 ORS 197.435 to 197.467 to be sited in any of the following areas:

23 (a) Within 24 air miles of an urban growth boundary [*with an existing population of 100,000 or*
24 *more unless residential uses are limited to those necessary for the staff and management of the*
25 *resort*].

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

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

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

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

35 (e) In an especially sensitive big game habitat area as determined by the State Department of
36 Fish and Wildlife in July 1984 [*or as*] **and any additional areas** designated in an acknowledged
37 comprehensive plan.

38 **(f) Forestlands, as defined in ORS 321.805.**

39 **(g) Within an irrigation district.**

40 **(h) Within three miles of the Metolius River Basin.**

41 (2) In carrying out subsection (1) of this section, a county shall adopt, as part of its compre-
42 hensive plan, a map consisting of eligible lands within the county. The map must be based on rea-
43 sonably available information and may be amended pursuant to ORS 197.610 to 197.625, but not more
44 frequently than once every 30 months. The county shall develop a process for collecting and pro-
45 cessing concurrently all map amendments made within a 30-month planning period. A map adopted

1 pursuant to this section shall be the sole basis for determining whether tracts of land are eligible
 2 for destination resort siting pursuant to ORS 197.435 to 197.467.

3 **SECTION 4.** ORS 197.460 is amended to read:

4 197.460. A county shall [*insure*] **ensure** that a destination resort is compatible with the site and
 5 [*adjacent land uses through the following measures:*] **the resort's area of impact. The county:**

6 (1) **Shall require that** important natural features, including habitat of threatened or endangered
 7 species, streams, rivers and [*significant*] wetlands, [*shall be retained.*] **not be affected. In addition,**
 8 riparian vegetation within 100 feet of streams, rivers and [*significant*] wetlands [*shall be retained*]
 9 **may not be affected.** [*Alteration of important natural features, including placement of structures*
 10 *which maintain the overall values of the feature may be allowed.*]

11 (2) [*Improvements and activities shall be located and designed to avoid or minimize*] **Shall require**
 12 **that** adverse effects of the resort [*on uses on surrounding lands*] **be avoided or minimized within**
 13 **the resort's area of impact**, particularly effects on [*intensive farming*] **agricultural operations and**
 14 **public infrastructure and services** [*in the area*]. At a minimum, measures to accomplish this shall
 15 include:

16 (a) Establishment and maintenance of buffers [*between*] **on** the resort [*and adjacent*] **to reduce**
 17 **the impact on nearby** land uses, including natural vegetation and, where appropriate, fences,
 18 berms, landscaped areas and other similar types of buffers.

19 (b) Setbacks of structures and other improvements from [*adjacent*] **nearby** land uses.

20 (c) **Avoidance or mitigation of adverse effects on state highways, county roads and city**
 21 **streets.**

22 (d) **Provision of fire-fighting and police services.**

23 (e) **Provision of affordable housing within the destination resort for persons working in**
 24 **the resort. The housing provided under this paragraph may not be counted against the**
 25 **maximum number of residential units that may be sold relative to the number of overnight**
 26 **lodging units, as described in ORS 197.445 (4)(d).**

27 **SECTION 5.** ORS 197.462 is amended to read:

28 197.462. A portion of a tract that is excluded from the site of a destination resort pursuant to
 29 ORS 197.435 [*(7) shall*] **(6) may** not be used or operated in conjunction with the resort. Subject to
 30 this limitation, the use of the excluded property shall be governed by otherwise applicable law.

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