

**Minority Report**  
**B-Engrossed**  
**House Bill 3298**

Ordered by the Senate June 10  
Including House Amendments dated May 4 and Senate Minority Report  
Amendments dated June 10

Sponsored by nonconcurring members of the Senate Committee on Rules: Senators FERRIOLI, ATKINSON

**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.

*[Provides that once counties and metropolitan service districts have designated land as urban reserve, they may not designate additional land as urban reserve until at least 50 percent of previously designated urban reserves have been included within urban growth boundary of district.]*

**Approves recommendation of Land Conservation and Development Commission to designate Metolius River Basin as area of critical state concern. Adopts management plan recommended by commission. Makes specified changes to management plan.**

**Prohibits county from approving siting of destination resort in Metolius River Basin.**

**Authorizes owner of land in specified location within Jefferson County to develop sustainable eco-community. Specifies criteria by which sustainable eco-community may be developed and operated.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to land reserves; and declaring an emergency.

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

4 **SECTION 1. (1) As used in this section, "Metolius River Basin" means the portions of the**  
5 **basin identified as Area 1 and Area 2 in the management plan recommended by the Land**  
6 **Conservation and Development Commission.**

7 **(2) Pursuant to ORS 197.405 (4), the Legislative Assembly hereby approves the recom-**  
8 **mendation of the commission, submitted to the Legislative Assembly on April 2, 2009, that**  
9 **the Metolius River Basin be designated an area of critical state concern.**

10 **(3) The Legislative Assembly approves the management plan included in the commission's**  
11 **recommendation pursuant to ORS 197.405 (1)(c) and directs the commission to adopt the**  
12 **management plan, by rule, without change except that:**

13 **(a) The management plan may not limit small-scale, recreation-oriented development**  
14 **within Jefferson County and located in township 13 south, range 8 east, section 13, based on**  
15 **possible legislative action of the Seventy-fifth Legislative Assembly to allow the owner, or**  
16 **affiliates of the owner, to develop a sustainable eco-community outside the Metolius River**  
17 **Basin. The commission may not enforce, and shall remove, a contrary provision from the**  
18 **management plan.**

19 **(b) The management plan must limit development of a small-scale recreation community**  
20 **within township 13 south, range 10 east, sections 20, 21, 28 and 29, in Jefferson County, so**  
21 **that all units must be sited within up to 25 clusters that may be connected only by a road**

**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 system. The commission may not enforce, and shall modify, a contrary provision in the  
2 management plan.

3 (4) Except as otherwise provided in this section, the commission may amend the man-  
4 agement plan only as provided in the management plan and only pursuant to applicable  
5 rulemaking procedures.

6 (5) In addition to limitations on development that are contained in the management plan,  
7 new development allowed by amendment of the management plan may not result in:

8 (a) Negative impact on the Metolius River, its springs or its tributaries;

9 (b) Negative impact on the fish resources in the Metolius River Basin; or

10 (c) Negative impact on the wildlife resources in the Metolius River Basin.

11 (6) A county may not approve siting a destination resort in the Metolius River Basin.

12 **SECTION 2. (1) As used in this section:**

13 (a) "Developed recreational facilities" means improvements constructed for the purpose  
14 of recreation and may include but are not limited to tennis courts, swimming pools, ski runs  
15 and bicycle paths.

16 (b) "Map of eligible lands" means a map of the county adopted pursuant to ORS 197.455.

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

23 (d) "Overnight lodgings" means:

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

31 (B) With respect to lands in eastern Oregon, as defined in ORS 321.805, permanent, sep-  
32 arately rentable accommodations that are not available for residential use, including hotel  
33 or motel rooms, cabins and time-share units. Individually owned units may be considered  
34 overnight lodgings if they are available for overnight rental use by the general public for at  
35 least 38 weeks per calendar year through a central reservation system operated by the des-  
36 tination resort or by a real estate property manager, as defined in ORS 696.010. Tent sites,  
37 recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommo-  
38 dations do not qualify as overnight lodgings for the purpose of this definition.

39 (e) "Tract" has the meaning given that term in ORS 215.010.

40 (2) A county may not approve siting a destination resort in the Metolius River Basin, as  
41 that term is defined in section 1 of this 2009 Act.

42 (3) An owner of land that is within Jefferson County and located in township 13 south,  
43 range 8 east, section 13, may develop a sustainable eco-community as provided in this sec-  
44 tion. An eco-community consists of land and buildings developed and operated in a  
45 sustainable manner that meets the following criteria:

1 (a) If possible, areas that require irrigation must use reclaimed water. When fully de-  
2 veloped, the eco-community must use reclaimed water as the primary source of water for  
3 irrigation.

4 (b) Motorized recreational activities and facilities for motorized recreational activities,  
5 including snowmobiling, are not permitted.

6 (c) Fifty percent of the eco-community must be dedicated to permanent, contiguous open  
7 space that demonstrates the biological viability of the site as habitat or provides ecosystem  
8 services to the area.

9 (d) Significant natural resource functions and values on and adjacent to the site must  
10 be preserved.

11 (e) Impervious surfaces, including rooftops and paved roads, trails and parking areas,  
12 may not exceed 35 percent of the total site area.

13 (f) Infrastructure must use the highest quality, lowest energy natural water treatment  
14 systems available that meet regulatory requirements.

15 (g) Developers must achieve a 20 percent reduction in potable water usage below stand-  
16 ard code built developments. Use of reclaimed water for nonpotable water needs may account  
17 for the entire required reduction.

18 (h) Use of recycled water is allowed in flushing toilets in residential and commercial  
19 buildings.

20 (i) Alternative transportation options must be programmed for both on-site and off-site  
21 circulation.

22 (j) Stormwater must be managed on-site, and off-site runoff must be limited to prede-  
23 velopment rates.

24 (k) Commercial uses allowed must be limited to types and levels of use necessary to meet  
25 the needs of visitors to the development. Industrial uses of any kind are not permitted.  
26 Commercial and other nonresidential buildings must be designed and constructed to meet  
27 regionally or nationally recognized design standards for sustainable or green design that are  
28 acceptable to the permitting authority.

29 (L) Residential buildings must be designed and constructed to meet regionally or na-  
30 tionally recognized design standards for sustainable design that are acceptable to the per-  
31 mitting authority. Developers must achieve certification for all buildings, with at least 50  
32 percent of the buildings achieving a top tier rating under the rating system selected.

33 (4) Subject to ORS 92.010 to 92.190, a county may authorize a sustainable eco-community  
34 on the lands described in subsection (3) of this section as a conditional use. The compre-  
35 hensive plan, and land use regulations implementing the plan, may allow for siting an eco-  
36 community on the lands described in subsection (3) of this section without demonstrating  
37 compliance with the statewide land use planning goals. An eco-community must be developed  
38 in compliance with the following standards:

39 (a) The eco-community must be a minimum of 200 acres and a maximum of 640 acres in  
40 size.

41 (b) Subject to confirmation by the county five years after development of the eco-  
42 community's first 25 units of overnight lodging and 50 residential units, the developer shall  
43 spend:

44 (A) Subject to subsection (6) of this section, at least \$1.5 million on off-site resource en-  
45 hancement or restoration projects located within the Metolius River Basin.

1       **(B) Subject to subsection (6) of this section, at least \$3 million for on-site developed**  
2 **recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer**  
3 **and water facilities and roads. Not less than one-third of this amount must be spent on de-**  
4 **veloped recreational facilities.**

5       **(c) An eco-community may not include areas designated as containing significant natural**  
6 **resources in an acknowledged comprehensive plan pursuant to a statewide land use planning**  
7 **goal relating to open spaces, scenic and historic areas and natural resources.**

8       **(d) An eco-community may not include a golf course or related facilities.**

9       **(e) An eco-community may not contain more than 45 units of overnight lodging and 95**  
10 **lots, parcels or units for residential sale.**

11       **(f) An eco-community must provide for at least 50 percent of the remaining planned**  
12 **overnight lodging units to be constructed or guaranteed through surety bonding or equiv-**  
13 **alent financial assurance within five years of the initial lot, parcel or unit sales.**

14       **(g) An eco-community must provide additional housing capable of housing at least 50**  
15 **percent of the peak season employees on-site.**

16       **(h) If a tract to be used as an eco-community contains a resource site designated for**  
17 **protection in an acknowledged comprehensive plan pursuant to a goal relating to open**  
18 **spaces, scenic and historic areas and natural resources, the developer shall preserve the re-**  
19 **source site on the tract by conservation easement, as set forth in ORS 271.715 to 271.795,**  
20 **that is sufficient to protect the resource values of the resource site. The developer shall**  
21 **cause the conservation easement required by this paragraph to be recorded in the property**  
22 **records of the county in which the tract is located.**

23       **(5) An eco-community must:**

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

26       **(A) Waste reduction, recycling and diversion.**

27       **(B) Cleaning and site maintenance practices.**

28       **(C) Staff education practices.**

29       **(D) Environmental stewardship practices.**

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

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

35       **(B) Ongoing review, selection and management of habitat restoration projects that ex-**  
36 **pend on the goals of the long-term stewardship plan.**

37       **(C) Education and outreach on environmental stewardship.**

38       **(c) Develop a resident and guest education program that affords opportunities for at least**  
39 **monthly interaction on environmentally responsible lifestyles and the benefit of environ-**  
40 **mentally responsible lifestyles to the region.**

41       **(d) Organize and manage volunteers working to conserve local resources.**

42       **(e) Compare and audit practices versus energy, water and site development standards and**  
43 **publish an annual report of the eco-community's performance results for the prior year.**

44       **(6) The spending required by subsection (4)(b) of this section is stated in 1993 dollars. The**  
45 **spending required must be adjusted to the year in which calculations are made in accordance**

1 with the United States Consumer Price Index.

2 SECTION 3. This 2009 Act being necessary for the immediate preservation of the public  
3 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
4 on its passage.

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