

# Senate Bill 431

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

## 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**.

Establishes additional requirements for destination resorts in eastern Oregon.

## A BILL FOR AN ACT

1  
2 Relating to destination resorts; creating new provisions; and amending ORS 197.445, 197.455 and  
3 197.465.

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

5 **SECTION 1.** ORS 197.445 is amended to read:

6 197.445. (1) A destination resort is a self-contained development that provides for visitor-  
7 oriented accommodations and developed recreational facilities in a setting with high natural amen-  
8 ities. To qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and  
9 215.284, a proposed development must meet the following standards:

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

12 [(2)] (b) At least 50 percent of the site must be dedicated to permanent open space, excluding  
13 streets and parking areas.

14 [(3)] (c) At least \$7 million must be spent on improvements for on-site developed recreational  
15 facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities  
16 and roads. Not less than one-third of this amount must be spent on developed recreational facilities.

17 [(4)] (d) Visitor-oriented accommodations including meeting rooms, restaurants with seating for  
18 100 persons and 150 separate rentable units for overnight lodging shall be provided. However, the  
19 rentable overnight lodging units may be phased in as follows:

20 [(a)] (A) On lands not described in [*paragraph (b) of this subsection*] **subparagraph (B) of this**  
21 **paragraph:**

22 [(A)] (i) A total of 150 units of overnight lodging must be provided.

23 [(B)] (ii) At least 75 units of overnight lodging, not including any individually owned homes, lots  
24 or units, must be constructed or guaranteed through surety bonding or equivalent financial assur-  
25 ance prior to the closure of sale of individual lots or units.

26 [(C)] (iii) The remaining overnight lodging units must be provided as individually owned lots or  
27 units subject to deed restrictions that limit their use to use as overnight lodging units. The deed  
28 restrictions may be rescinded when the resort has constructed 150 units of permanent overnight  
29 lodging as required by this [*subsection*] **paragraph.**

30 [(D)] (iv) The number of units approved for residential sale may not be more than two units for  
31 each unit of permanent overnight lodging provided under this [*paragraph*] **subparagraph.**

32 [(E)] (v) The development approval must provide for the construction of other required overnight

**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 lodging units within five years of the initial lot sales.

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

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

4 [(B)] **(ii)** At least 50 units of overnight lodging must be constructed prior to the closure of sale  
5 of individual lots or units.

6 [(C)] **(iii)** At least 50 of the remaining 100 required overnight lodging units must be constructed  
7 or guaranteed through surety bonding or equivalent financial assurance within five years of the in-  
8 itial lot sales.

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

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

13 [(F)] **(vi)** If the developer of a resort guarantees the overnight lodging units required under  
14 [subparagraphs (C) and (D) of this paragraph] **sub-subparagraphs (iii) and (iv) of this subpara-**  
15 **graph** through surety bonding or other equivalent financial assurance, the overnight lodging units  
16 must be constructed within four years of the date of execution of the surety bond or other equiv-  
17 alent financial assurance.

18 **(2) On lands in eastern Oregon, as defined in ORS 321.805:**

19 **(a) The destination resort may not be:**

20 **(A) Within 10 miles of another destination resort; or**

21 **(B) Within eight miles of an urban growth boundary.**

22 **(b) The destination resort may not negatively affect a watershed.**

23 **(c) In lieu of the restaurants required by subsection (1)(d) of this section, the destination**  
24 **resort must contain a restaurant that has at least 3,000 square feet of usable floor space.**

25 **(d) The destination resort must include:**

26 **(A) A grocery store, convenience store or food market that contains at least 5,000 square**  
27 **feet of usable floor space;**

28 **(B) A swimming pool; and**

29 **(C) At least five miles of bicycle paths.**

30 [(5)] **(3)** Commercial uses allowed are limited to types and levels of use necessary to meet the  
31 needs of visitors to the development. Industrial uses of any kind are not permitted.

32 [(6)] **(4)** In lieu of the standards in [subsections (1), (3) and (4)] **subsection (1)(a), (c) and (d)**  
33 **of this section, the standards set forth in subsection [(7)] (5) of this section apply to a destination**  
34 **resort:**

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

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

38 **(c) On such secondary lands as the Land Conservation and Development Commission deems ap-**  
39 **propriate.**

40 [(7)] **(5)** The following standards apply to [the provisions of subsection (6)] **a destination resort**  
41 **described in subsection (4) of this section:**

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

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

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

2 (d) Restaurant and meeting room with at least one seat for each unit of overnight lodging must  
3 be provided.

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

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

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

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

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

15 [(8)] **(6)** Spending required under subsections [(3) and (7)] **(1)(c) and (5)** of this section is stated  
16 in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made  
17 in accordance with the United States Consumer Price Index.

18 [(9)] **(7)** When making a land use decision authorizing construction of a destination resort in  
19 eastern Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall  
20 require the resort developer to provide an annual accounting to document compliance with the  
21 overnight lodging standards of this section. The annual accounting requirement commences one year  
22 after the initial lot or unit sales. The annual accounting must contain:

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

26 (b) Documentation showing that the resort meets the lodging ratio described in subsection [(4)]  
27 **(1)(d)** of this section.

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

31 **SECTION 2.** ORS 197.455 is amended to read:

32 197.455. (1) A destination resort must be sited on lands mapped as eligible for destination resort  
33 siting by the affected county. The county may not allow destination resorts approved pursuant to  
34 ORS 197.435 to 197.467 to be sited in any of the following areas:

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

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

40 (B) On a site within three miles of a high value crop area unless the resort complies with the  
41 requirements of ORS 197.445 [(6)] **(4)** in which case the resort may not be closer to a high value crop  
42 area than one-half mile for each 25 units of overnight lodging or fraction thereof.

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

45 (d) In the Columbia River Gorge National Scenic Area as defined by the Columbia River Gorge

1 National Scenic Act, P.L. 99-663.

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

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

11 **SECTION 3.** ORS 197.465 is amended to read:

12 197.465. An acknowledged comprehensive plan that allows for siting of a destination resort shall  
13 include implementing measures which:

14 (1) Map areas where a destination resort described in ORS [197.445 (1) to (5)] **197.435 to 197.467**  
15 is permitted pursuant to ORS 197.455;

16 (2) Limit uses and activities to those defined by ORS 197.435 and allowed by ORS 197.445; and

17 (3) Assure that developed recreational facilities and key facilities intended to serve the entire  
18 development and visitor-oriented accommodations are physically provided or are guaranteed through  
19 surety bonding or substantially equivalent financial assurances prior to closure of sale of individual  
20 lots or units. In phased developments, developed recreational facilities and other key facilities in-  
21 tended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed  
22 through surety bonding.

23 **SECTION 4. The amendments to ORS 197.445, 197.455 and 197.465 by sections 1 to 3 of this**  
24 **2009 Act apply to destination resorts for which siting is approved on or after the effective**  
25 **date of this 2009 Act.**

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