

House Bill 3467

Sponsored by Representative WHISNANT

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 siting of destination resorts and for facilities or amenities that may be included in destination resorts.

A BILL FOR AN ACT

1
2 Relating to destination resorts; creating new provisions; amending ORS 197.435, 197.445, 197.455,
3 197.460, 197.462 and 197.465 and section 2, chapter 636, Oregon Laws 2009.

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

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

6 197.435. As used in ORS 197.435 to 197.467:

7 (1) "Developed recreational facilities" means improvements constructed for the purpose of re-
8 creation and may include but are not limited to golf courses, tennis courts, swimming pools, marinas,
9 ski runs, **water parks, sports and athletic facilities, hiking trails** and bicycle paths.

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

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

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

25 [(5) "*Overnight lodgings*" means:]

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

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 *purpose of this definition.]*

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

10 **(4)(a) “Overnight lodging” means separately rentable accommodations, including houses,**
 11 **condominiums and townhouses that are enrolled in a rental pool available to visiting mem-**
 12 **bers of the public, hotel and motel rooms, cabins, recreational vehicle spaces and time-share**
 13 **units, that are not in use as permanent residences.**

14 **(b) “Overnight lodging” does not mean tent sites, manufactured dwellings, dormitory**
 15 **rooms and similar accommodations.**

16 *[(6) (5) “Self-contained development” means a development for which community sewer and*
 17 *water facilities are provided on-site [and are limited to meet the needs of the development] or are*
 18 *provided by existing public sewer or water service as long as all costs related to service extension*
 19 *and any capacity increases are borne by the development. [A “self-contained development” must have*
 20 *developed recreational facilities provided on-site.]*

21 *[(7) (6) “Tract” means a lot or parcel or more than one contiguous lot or parcel in a single*
 22 *ownership. [A tract may include property that is not included in the proposed site for a destination*
 23 *resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent*
 24 *of the total tract.]*

25 *[(8) (7) “Visitor-oriented accommodations” means overnight lodging, restaurants and meeting*
 26 *facilities that are designed to and provide for the needs of [visitors] visiting members of the public*
 27 *rather than year-round residents.*

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

29 197.445. **(1)** A destination resort is a self-contained development that provides for visitor-
 30 oriented accommodations and developed recreational facilities in a setting with high natural amen-
 31 ities. To qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and
 32 215.284, a proposed development must meet the following standards:

33 *[(1) (a) The resort must be located on a site of [160] 40 acres or more except within two miles*
 34 *of the ocean shoreline where the site shall be [40] 20 acres or more.*

35 *[(2) (b) At least [50] 40 percent of the site must be dedicated to permanent open space, ex-*
 36 *cluding streets and parking areas.*

37 *[(3) (c) At least [\$7 million] \$10,000 per residential unit must be spent on improvements for*
 38 *on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for*
 39 *land, sewer and water facilities and roads. Not less than one-third of this amount must be spent on*
 40 *developed recreational facilities.*

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

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

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

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

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

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

10 [(E) *The development approval must provide for the construction of other required overnight lodg-*
11 *ing units within five years of the initial lot sales.*]

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

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

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

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

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

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

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

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

29 [(6) *In lieu of the standards in subsections (1), (3) and (4) of this section, the standards set forth*
30 *in subsection (7) of this section apply to a destination resort:*]

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

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

35 [(c) *On such secondary lands as the Land Conservation and Development Commission deems ap-*
36 *propriate.*]

37 [(7) *The following standards apply to the provisions of subsection (6) of this section:*]

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

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

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

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

45 [(e) *Residential uses must be limited to those necessary for the staff and management of the*

1 resort.]

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

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

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

9 [(B) On-site identification and directional signs.]

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

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

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

21 [(b) Documentation showing that the resort meets the lodging ratio described in subsection (4) of
22 this section.]

23 [(c) For a resort counting individually owned units as qualified overnight lodging units, the num-
24 ber of weeks that each overnight lodging unit is available for rental to the general public as described
25 in ORS 197.435.]

26 **(d) Commercial uses allowed are limited to types and levels of use necessary to meet the
27 needs of visiting members of the public and for the operation of the development. Industrial
28 uses of any kind are not permitted.**

29 **(e) Subject to subsection (3) of this section, the ratio of residential units to overnight
30 lodging units may not exceed:**

31 **(A) 1:1 if less than 40 percent of the destination resort site is dedicated to open space.**

32 **(B) 1.5:1 if 40 percent or more and less than 50 percent of the destination resort site is
33 dedicated to open space.**

34 **(C) 2:1 if 50 percent or more and less than 60 percent of the destination resort site is
35 dedicated to open space.**

36 **(D) 2.5:1 if 60 percent or more and less than 70 percent of the destination resort site is
37 dedicated to open space.**

38 **(E) 3:1 if 70 percent or more of the destination resort site is dedicated to open space.**

39 **(f) A self-contained development must have developed recreational facilities provided on-
40 site or show how the development will utilize adjacent natural areas, including national
41 parks.**

42 **(2) A destination resort may establish visitor-oriented accommodations, including meet-
43 ing rooms, restaurants and rentable units for overnight lodging. A destination resort must
44 be designed to attract and encourage multiple night stays by visiting members of the public.
45 Overnight lodging may be provided on-site or near enough to the destination resort to facil-**

1 **itate use of the resort by the lodging guests.**

2 **(3) If the developer of the destination resort acquires sufficient transferable development**
 3 **rights, the developer may increase the number of residential units authorized under the ra-**
 4 **tios described in subsection (1)(e) of this section by 50 percent.**

5 **SECTION 3.** ORS 197.455, as amended by section 1, chapter 32, Oregon Laws 2010, is amended
 6 to read:

7 197.455. [(1)] A destination resort may be sited only on lands [*mapped as*] eligible for destination
 8 [*resort siting by the affected county. The*] **resorts.** A county may not allow destination resorts ap-
 9 proved pursuant to ORS 197.435 to 197.467 to be sited in any of the following areas:

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

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

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

18 **(1) On a site within three miles of a high value crop area. The designation of a high value**
 19 **crop area is intended to minimize conflicting uses in resort siting and does not revise the**
 20 **requirements of a statewide land use planning goal relating to agricultural land or the ad-**
 21 **ministrative rules interpreting the goal.**

22 [(c) **(2)** On predominantly Cubic Foot Site Class 1 or 2 forestlands, as determined by the State
 23 Forestry Department, [*which*] **that** are not subject to an approved goal exception.

24 [(d) **(3)** In the Columbia River Gorge National Scenic Area as defined by the Columbia River
 25 Gorge National Scenic Act, P.L. 99-663.

26 [(e) **(4)** In an especially sensitive big game habitat area:

27 [(A) **(a)** As determined by the State Department of Fish and Wildlife in July 1984, and in addi-
 28 tional especially sensitive big game habitat areas designated by a county in an acknowledged com-
 29 prehensive plan; or

30 [(B) **(b)** If the State Fish and Wildlife Commission amends the 1984 determination with respect
 31 to an entire county and the county amends its comprehensive plan to reflect the commission's sub-
 32 sequent determination, as designated in the acknowledged comprehensive plan.

33 [(f) **(5)** On a site in which the lands are predominantly classified as being in Fire Regime Con-
 34 dition Class 3, unless the county approves a wildfire protection plan that demonstrates the site can
 35 be developed without being at a high overall risk of fire.

36 [(2) *In carrying out subsection (1) of this section, a county shall adopt, as part of its comprehensive*
 37 *plan, a map consisting of eligible lands within the county. The map must be based on reasonably*
 38 *available information and may be amended pursuant to ORS 197.610 to 197.625, but not more fre-*
 39 *quently than once every 30 months. The county shall develop a process for collecting and processing*
 40 *concurrently all map amendments made within a 30-month planning period. A map adopted pursuant*
 41 *to this section shall be the sole basis for determining whether tracts of land are eligible for destination*
 42 *resort siting pursuant to ORS 197.435 to 197.467.*]

43 **SECTION 4.** ORS 197.460, as amended by section 2, chapter 32, Oregon Laws 2010, is amended
 44 to read:

45 197.460. A county shall ensure that a destination resort is compatible with the site and adjacent

1 land uses through the following measures:

2 (1) Important natural features, including habitat of threatened or endangered species, streams,
 3 rivers and significant wetlands shall be retained. Riparian vegetation within 100 feet of streams,
 4 rivers and significant wetlands shall be retained. Alteration of important natural features, including
 5 placement of structures that maintain the overall values of the feature may be allowed.

6 (2) Improvements and activities shall be located and designed to avoid or minimize adverse ef-
 7 fects of the resort on uses on surrounding lands, particularly effects on intensive farming operations
 8 in the area. At a minimum, measures to accomplish this shall include:

9 (a) Establishment and maintenance of buffers between the resort and adjacent land uses, in-
 10 cluding natural vegetation and where appropriate, fences, berms, landscaped areas and other similar
 11 types of buffers; **or** .]

12 (b) Setbacks of structures and other improvements from adjacent land uses.

13 (3) If the site is west of the summit of the Coast Range and within 10 miles of an urban growth
 14 boundary, or if the site is east of the summit of the Coast Range and within 25 miles of an urban
 15 growth boundary, the county shall require the applicant to submit an economic impact analysis of
 16 the proposed development that includes analysis of the projected impacts within the county and
 17 within cities whose urban growth boundaries are within the distance specified in this subsection.

18 (4) If the site is west of the summit of the Coast Range and within 10 miles of an urban growth
 19 boundary, or if the site is east of the summit of the Coast Range and within 25 miles of an urban
 20 growth boundary, the county shall require the applicant to submit a traffic impact analysis of the
 21 proposed development that includes measures to avoid or mitigate a proportionate share of adverse
 22 effects of transportation on state highways and other transportation facilities affected by the pro-
 23 posed development, including transportation facilities in the county and in cities whose urban
 24 growth boundaries are within the distance specified in this subsection.

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

26 197.462. (1) **A tract may include property that is not included in the proposed site of a**
 27 **destination resort if the property to be excluded is on the boundary of the tract and consti-**
 28 **tutes less than 30 percent of the total tract.**

29 (2) A portion of a tract that is excluded from the site of a destination resort pursuant to [ORS
 30 197.435 (7) shall not] **subsection (1) of this section may not** be used or operated in conjunction
 31 with the resort. Subject to this limitation, the use of the excluded property shall be governed by
 32 otherwise applicable law.

33 **SECTION 6.** ORS 197.465 is amended to read:

34 197.465. An acknowledged comprehensive plan that allows for siting of a destination resort shall
 35 include implementing measures [which] **that:**

36 [(1) Map areas where a destination resort described in ORS 197.445 (1) to (5) is permitted pursuant
 37 to ORS 197.455;]

38 [(2)] (1) Limit uses and activities to those defined [by] **in** ORS 197.435 and allowed by ORS
 39 197.445; and

40 [(3)] (2) [Assure] **Ensure** that developed recreational facilities and key facilities intended to
 41 serve the entire development and visitor-oriented accommodations are physically provided or are
 42 guaranteed through surety bonding or substantially equivalent financial assurances prior to closure
 43 of sale of individual lots or units. In phased developments, developed recreational facilities and other
 44 key facilities intended to serve a particular phase shall be constructed prior to sales in that phase
 45 or guaranteed through surety bonding.

1 **SECTION 7.** Section 2, chapter 636, Oregon Laws 2009, is amended to read:

2 **Sec. 2.** As used in sections 2 to 5, **chapter 636, Oregon Laws 2009** [*of this 2009 Act*]:

3 (1) “Management plan” means the management plan for the Metolius River Basin that was re-
4 commended to the Legislative Assembly on April 2, 2009, by the Land Conservation and Develop-
5 ment Commission.

6 (2) “Metolius resort site” means land mapped as eligible for destination resort siting under ORS
7 197.455, **as that statute was in effect immediately before the effective date of this 2011 Act**,
8 by Jefferson County that has not been developed as a resort.

9 [(3) “Overnight lodgings” has the meaning given that term in ORS 197.435.]

10 (3)(a) **“Overnight lodging” means with respect to lands not identified in paragraph (b) of**
11 **this subsection:**

12 (A) **Permanent, separately rentable accommodations that are not available for residential**
13 **use, including hotel or motel rooms, cabins and time-share units; and**

14 (B) **Individually owned units that are available for overnight rental use by the general**
15 **public for at least 45 weeks per calendar year through a central reservation and check-in**
16 **service.**

17 (b) **“Overnight lodging” means with respect to lands in eastern Oregon, as defined in ORS**
18 **321.805:**

19 (A) **Permanent, separately rentable accommodations that are not available for residential**
20 **use, including hotel or motel rooms, cabins and time-share units; and**

21 (B) **Individually owned units that are available for overnight rental use by the general**
22 **public for at least 38 weeks per calendar year through a central reservation system operated**
23 **by the destination resort or by a real estate property manager, as defined in ORS 696.010.**

24 (c) **“Overnight lodging” does not mean tent sites, recreational vehicle parks, manufac-**
25 **tured dwellings, dormitory rooms and similar accommodations.**

26 (4) “Tract” has the meaning given that term in ORS 215.010.

27 **SECTION 8.** The amendments to ORS 197.435, 197.445, 197.455, 197.460, 197.462 and 197.465
28 **and section 2, chapter 636, Oregon Laws 2009, by sections 1 to 7 of this 2011 Act apply to a**
29 **destination resort for which siting is approved on or after the effective date of this 2011 Act.**

30