

Senate Bill 982

Sponsored by Senator GEORGE; Senators ATKINSON, TELFER, Representatives ESQUIVEL, GARRARD, HUFFMAN, MATTHEWS, SCHAUFLER, 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 authority for siting destination resort and for development as part of destination resort.

A BILL FOR AN ACT

Relating to destination resorts; amending ORS 197.435, 197.445, 197.455 and 197.465.

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

SECTION 1. ORS 197.435 is amended to read:

197.435. As used in ORS 197.435 to 197.467:

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

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

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

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

(5) "Overnight lodgings" means:

(a) With respect to lands not identified in paragraph (b) of this subsection, permanent, separately rentable accommodations that are not [*available*] **designed** for residential use, including hotel or motel rooms, cabins and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation and check-in service. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings 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] **designed** for residential use, including hotel or
 3 motel rooms, cabins and time-share units. Individually owned units may be considered overnight
 4 lodgings if they are available for overnight rental use by the general public for at least 38 weeks
 5 per calendar year through a central reservation system operated by the destination resort or by a
 6 real estate property manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks,
 7 manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight
 8 lodgings for the purpose of this definition.

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

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

18 (8) "Visitor-oriented accommodations" means overnight lodging, restaurants, [and] meeting fa-
 19 cilities, **tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and**
 20 **similar accommodations that do not qualify as overnight lodgings** that are designed to and
 21 provide for the needs of visitors rather than year-round residents.

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

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

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

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

31 (3) At least \$7 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 (4) Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100
 35 persons and 150 separate rentable units for overnight lodging shall be provided. However, the
 36 rentable overnight lodging units may be phased in as follows:

37 (a) On lands not described in paragraph (b) of this subsection:

38 (A) A total of 150 units of overnight lodging must be provided.

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

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

1 (D) The number of units approved for residential sale may not be more than two units for each
 2 unit of permanent overnight lodging provided under this paragraph.

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

5 (b) On lands in eastern Oregon, as defined in ORS 321.805:

6 (A) A total of 150 units of overnight lodging must be provided.

7 (B) At least 50 units of overnight lodging must be constructed prior to the closure of **any** sale
 8 of individual lots or units.

9 (C) At least 50 of the remaining [100] required overnight lodging units must be constructed [or
 10 *guaranteed through surety bonding or equivalent financial assurance within five years of the initial lot*
 11 *sales*] **prior to the closure of sale of more than 125 individual lots or units.**

12 (D) The remaining required overnight lodging units must be constructed [or *guaranteed through*
 13 *surety bonding or equivalent financial assurances within 10 years of the initial lot sales*] **prior to the**
 14 **closure of sale of more than 250 individual lots or units.**

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

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

21 **(F) Overnight lodging units must be designed to encourage and facilitate use as overnight**
 22 **lodging accommodations and must incorporate the following design restrictions:**

23 **(i) A single-family detached dwelling may not be sited on a lot or parcel that exceeds 5,000**
 24 **square feet.**

25 **(ii) A single-family detached dwelling, a condominium unit or a townhouse may not ex-**
 26 **ceed 1,800 square feet.**

27 **(iii) A single-family detached dwelling, a condominium unit or a townhouse may be de-**
 28 **veloped with one single-car garage for the dwelling, unit or townhouse.**

29 **(5) When an application is submitted under ORS 197.435 to 197.467, if the site of a pro-**
 30 **posed destination resort includes existing improvements:**

31 **(a) Existing on-site developed recreational facilities or visitor-oriented accommodations**
 32 **may be used to satisfy the requirements of subsections (3) and (4) of this section.**

33 **(b) Existing residential dwellings are:**

34 **(A) Not included in the improvements that can be developed pursuant to subsection (4)(b)**
 35 **of this section.**

36 **(B) Exempt from the setback requirements in ORS 197.460.**

37 *[(5)]* **(6)** Commercial uses allowed are limited to types and levels of use necessary to meet the
 38 needs of visitors to the development. Industrial uses of any kind are not permitted.

39 *[(6)]* **(7)** In lieu of the standards in subsections (1), (3), *[and]* (4) **and (5)** of this section, the
 40 standards set forth in subsection *[(7)]* **(8)** of this section apply to a destination resort:

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

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

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

1 [(7)] (8) The following standards apply to the provisions of subsection [(6)] (7) of this section:

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

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

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

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

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

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

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

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

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

20 [(8)] (9) Spending required under subsections (3) and [(7)] (8) of this section is stated in 1993
21 dollars. The spending required shall be adjusted to the year in which calculations are made in ac-
22 cordance with the United States Consumer Price Index.

23 [(9)] (10) When making a land use decision authorizing construction of a destination resort in
24 eastern Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall
25 require the resort developer to provide an annual accounting to document compliance with the
26 overnight lodging standards of this section. The annual accounting requirement commences one year
27 after the initial lot or unit sales. The annual accounting must contain:

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

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

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

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

38 197.455. (1) A destination resort may be sited only on lands mapped as eligible for destination
39 resort siting by the affected county. The county may not allow destination resorts approved pursu-
40 ant to ORS 197.435 to 197.467 to be sited in any of the following areas:

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

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

1 **unless the unique or prime farmland is protected by a conservation easement as provided in**
 2 **ORS 197.467.**

3 (B) On a site within three miles of a high value crop area unless the resort complies with the
 4 requirements of ORS 197.445 [(6)] (7) in which case the resort may not be closer to a high value crop
 5 area than one-half mile for each 25 units of overnight lodging or fraction thereof.

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

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

10 (e) In an especially sensitive big game habitat area:

11 (A) As determined by the State Department of Fish and Wildlife in July 1984, and in additional
 12 especially sensitive big game habitat areas designated by a county in an acknowledged comprehen-
 13 sive plan; or

14 (B) If the State Fish and Wildlife Commission amends the 1984 determination with respect to
 15 an entire county and the county amends its comprehensive plan to reflect the commission's subse-
 16 quent determination, as designated in the acknowledged comprehensive plan.

17 (f) On a site in which the lands are predominantly classified as being in Fire Regime Condition
 18 Class 3, unless the county approves a wildfire protection plan that demonstrates the site can be
 19 developed without being at a high overall risk of fire.

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

27 **SECTION 4.** ORS 197.465 is amended to read:

28 197.465. An acknowledged comprehensive plan that allows for siting of a destination resort shall
 29 include implementing measures [which] **that**:

30 (1) Map areas where a destination resort described in ORS 197.445 (1) to [(5)] (6) is permitted
 31 pursuant to ORS 197.455;

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

33 (3) [Assure] **Ensure** that developed recreational facilities and key facilities intended to serve the
 34 entire development and visitor-oriented accommodations are physically provided or are guaranteed
 35 through surety bonding or substantially equivalent financial assurances prior to closure of sale of
 36 individual lots or units **in accordance with ORS 197.445 (4)**. In phased developments, developed
 37 recreational facilities and other key facilities intended to serve a particular phase shall be con-
 38 structed prior to sales in that phase or guaranteed through surety bonding.