

# House Bill 3431

Sponsored by Representative CLEM

## 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**.

Extends deadline for owner of Metolius resort site to notify Department of Land Conservation and Development that owner has elected to seek approval of small-scale recreation community.  
Extends deadline for owner to apply to county for approval of small-scale recreation community.  
Modifies authorization for establishment of units in small-scale recreation community.

## A BILL FOR AN ACT

1  
2 Relating to transferable development opportunities; amending sections 2, 3 and 4, chapter 636,  
3 Oregon Laws 2009.

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

5 **SECTION 1.** Section 3, chapter 636, Oregon Laws 2009, as amended by section 1, chapter 888,  
6 Oregon Laws 2009, and section 1, chapter 404, Oregon Laws 2011, is amended to read:

7 **Sec. 3.** (1) Notwithstanding ORS 215.700 to 215.780, one or two small-scale recreation commu-  
8 nities may be established as specified in sections 2 to 5, chapter 636, Oregon Laws 2009.

9 (2) If, within [*one year after June 29, 2009*] \_\_\_\_\_ **years after the effective date of this 2015**  
10 **Act**, the owner of a Metolius resort site notifies the Department of Land Conservation and Devel-  
11 opment that it has elected to seek approval of a small-scale recreation community, the owner may,  
12 within [*six years after June 29, 2009*] \_\_\_\_\_ **years after the effective date of this 2015 Act**, ap-  
13 ply to a county for approval of a small-scale recreation community.

14 (3) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon  
15 Laws 2009, may be established only in conjunction with a transfer of development opportunity from  
16 a Metolius resort site. A transfer of development opportunity must be carried out through an  
17 agreement between the owner of a Metolius resort site and the owner of the site proposed for de-  
18 velopment of a small-scale recreation community. In the agreement, the owner of the Metolius resort  
19 site must:

20 (a) Agree to limit the use of the Metolius resort site, consistent with the management plan in  
21 consideration for the opportunity to participate in the development of the small-scale recreation  
22 community; and

23 (b) Agree to grant a conservation easement pursuant to ORS 271.715 to 271.795 that:

24 (A) Limits the use of the Metolius resort site to be consistent with the management plan;

25 (B) Allows public access to that portion of the site that is not developed; and

26 (C) Contains other provisions, as required by the Department of Land Conservation and Devel-  
27 opment, that are necessary to ensure that the conservation easement is enforceable.

28 (4)(a) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon  
29 Laws 2009, must be sited on land that is within a county [*that has, on June 29, 2009, a seasonally*  
30 *adjusted average annual unemployment rate over the preceding 10 calendar years that is more than 110*

**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 percent of the unemployment rate for the entire state over the same period, as reported by the Employ-  
 2 ment Department] **described in paragraph (b) of this subsection** and that is either:

3 [(a)] **(A)** Planned and zoned for forest use; or

4 [(b)] **(B)** Rural and not subject to statewide land use planning goals relating to agricultural  
 5 lands or forestlands.

6 **(b) A small-scale recreation community may be established in:**

7 **(A) Clatsop County; or**

8 **(B) A county that has, on \_\_\_\_\_, a seasonally adjusted average annual unemployment**  
 9 **rate over the preceding 10 calendar years that is more than 110 percent of the unemployment**  
 10 **rate for the entire state over the same period, as reported by the Employment Department.**

11 (5) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon  
 12 Laws 2009, may not be sited on land [*that is*]:

13 (a) Within an area identified as “Area 1” or “Area 2” in the management plan.

14 (b) Within an area described in ORS 197.455 in which destination resorts may not be sited.

15 (c) Within an area protected by or inventoried as a significant resource in an acknowledged  
 16 comprehensive plan provision implementing statewide land use planning goals relating to:

17 (A) Open space, scenic and historic areas and natural resources;

18 (B) Estuarine resources;

19 (C) Coastal shorelands; or

20 (D) Beaches and dunes.

21 (d) Within an area identified as subject to a natural hazard by an acknowledged comprehensive  
 22 plan provision implementing a statewide land use planning goal relating to protection from natural  
 23 hazards.

24 **SECTION 2.** Section 4, chapter 636, Oregon Laws 2009, as amended by section 2, chapter 888,  
 25 Oregon Laws 2009, is amended to read:

26 **Sec. 4.** (1) A small-scale recreation community authorized under sections 2 to 5, chapter 636,  
 27 Oregon Laws 2009, must meet the following development standards:

28 (a) The community must be located on a tract that contains 320 or fewer acres of land.

29 (b) The community must consist of 240 or fewer [*units and have as its primary purpose the pro-*  
 30 *vision of overnight lodging units.*] **recreation units.**

31 (c) The community may contain one restaurant containing 5,000 or fewer square feet, and ac-  
 32 cessory uses necessary to the operation of the community, including accessory recreational facili-  
 33 ties.

34 (d) The owner of the property must spend at least \$1.5 million on off-site resource enhancement  
 35 or restoration projects on nearby public lands that will be used by individuals from the community.

36 (e) The community may not include a golf course or related facilities.

37 (f) The community must be developed and operated in a sustainable manner by meeting the fol-  
 38 lowing criteria:

39 (A) When fully developed, the community must use reclaimed water as the primary source of  
 40 water for any irrigation of grounds.

41 (B) Facilities for snowmobiling or other motorized recreational activities are not permitted.

42 (C) At least 50 percent of the tract on which the community is located must be dedicated to  
 43 permanent open space that is contiguous and demonstrates the biological viability of the site as  
 44 habitat or that provides ecosystem services to the area.

45 (D) Significant natural resource functions and values on the site must be preserved.

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

3 (F) Potable water usage must achieve a 20 percent reduction below standard code-built devel-  
 4 opments. Reclaimed water usage for nonpotable water needs may account for the entire reduction  
 5 required.

6 (G) Stormwater must be managed on-site. Off-site runoff must be limited to predevelopment  
 7 runoff rates.

8 (H) A restaurant, lodge or other nonresidential building must be designed and constructed to  
 9 meet regionally or nationally recognized design standards for sustainable design that are acceptable  
 10 to the county having land use jurisdiction over the proposed development site.

11 (I) Residential buildings must be designed and constructed to meet regionally or nationally re-  
 12 cognized design standards for sustainable design that are acceptable to the county having land use  
 13 jurisdiction over the proposed development site. The developer must achieve certification for all  
 14 buildings, with at least 50 percent of the buildings achieving a top-tier rating under the rating sys-  
 15 tem selected.

16 (J) **For sites that are 20 or more miles outside an acknowledged urban growth boundary,**  
 17 additional housing capable of housing at least 50 percent of the peak season employees must be  
 18 provided on-site.

19 (2) In addition to the development standards described in subsection (1) of this section, a  
 20 small-scale recreation community must:

21 (a) Develop an environmental operations manual that describes core practices for operating the  
 22 small-scale recreation community, including:

- 23 (A) Waste reduction, recycling and diversion practices.
- 24 (B) Cleaning and site maintenance practices.
- 25 (C) Staff education practices.
- 26 (D) Commitment of the community to environmental stewardship.

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

29 (A) Development of a baseline study that establishes the current level and condition of the local  
 30 environment. As part of the baseline study, the organization must develop a long-term **environ-**  
 31 **mental** stewardship plan that targets net creation and rehabilitation of resources, on-site and off-  
 32 site, **provides habitat for viable populations of vertebrate species and maintains or enhances**  
 33 **habitat for other wildlife species.**

34 (B) Ongoing review, election and management of habitat restoration projects that implement the  
 35 goal of the long-term **environmental** stewardship plan.

36 (C) Education and outreach *[on]* **to residents and visitors regarding the long-term** environ-  
 37 mental stewardship **plan.**

38 **(D) Periodic assessment of impacts of the long-term environmental stewardship plan on**  
 39 **forest health and wildlife habitat and reporting of the assessment to the Legislative Assem-**  
 40 **ble, in the manner described in ORS 192.245, and to owners of residential units in the com-**  
 41 **munity.**

42 (c) Organize and manage volunteers working to conserve local resources.

43 (d) Monitor performance of energy and water usage and site development standards versus ac-  
 44 tual practice.

45 (e) Audit and publish annually a report of the community's performance result for the preceding

1 year.

2 **SECTION 3.** Section 2, chapter 636, Oregon Laws 2009, is amended to read:

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

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

7 (2) "Metolius resort site" means land mapped as eligible for destination resort siting under ORS  
8 197.455 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 [(4)] (3) "Tract" has the meaning given that term in ORS 215.010.

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