

House Bill 4031

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture 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**.

Provides that county approval of application for small-scale recreation community shall constitute acknowledged exception to applicable statewide planning goal with which such use would not otherwise comply. Amends standards for review of small-scale recreation community application.

Lessens minimum distance from large city of cities eligible to be selected by Land Conservation and Development Commission for economic development pilot program. Corrects erroneous cross-reference in statute.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the use of land; amending ORS 197A.405 and 197A.407 and sections 3 and 5, chapter 636,
3 Oregon Laws 2009; and declaring an emergency.

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, section 1, chapter 404, Oregon Laws 2011, section 1, chapter 748, Oregon Laws
7 2015, and section 1, chapter 494, Oregon Laws 2017, is amended to read:

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

10 (2) The owner of a Metolius resort site may apply to a county for approval of a small-scale re-
11 creation community within three years after [*the effective date of this 2017 Act*] **June 29, 2017**, if:

12 (a) Prior to June 29, 2010, the owner notified the Department of Land Conservation and Devel-
13 opment that the owner elected to seek approval of a small-scale recreation community; and

14 (b) The owner renews the election described in paragraph (a) of this subsection within 30 days
15 after [*the effective date of this 2017 Act*] **June 29, 2017**.

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

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

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

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

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

28 (C) Contains other provisions, as required by the Department of Land Conservation and Devel-

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 opment, that are necessary to ensure that the conservation easement is enforceable.

2 (4)(a) A small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon
3 Laws 2009, must be sited on land that is within a county described in paragraph (b) of this sub-
4 section and that is either **or both of the following**:

5 (A) Planned and zoned for forest use; or

6 (B) Rural and not subject to statewide land use planning goals relating to agricultural lands or
7 forestlands.

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

9 (A) Baker County;

10 (B) Clatsop County;

11 (C) Columbia County;

12 (D) Coos County;

13 (E) Crook County;

14 (F) Curry County;

15 (G) Douglas County;

16 (H) Grant County;

17 (I) Harney County;

18 (J) Josephine County;

19 (K) Klamath County;

20 (L) Lake County;

21 (M) Lincoln County;

22 (N) Linn County;

23 (O) Malheur County;

24 (P) Morrow County;

25 (Q) Sherman County;

26 (R) Umatilla County;

27 (S) Wallowa County;

28 (T) Wasco County; or

29 (U) Wheeler County.

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

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

33 (b) Within an area protected as a significant resource in an acknowledged comprehensive plan
34 provision implementing statewide land use planning goals relating to:

35 (A) Open space and scenic and historic areas;

36 (B) Estuarine resources; or

37 (C) Beaches and dunes.

38 (6)(a) All land on which a small-scale recreation community authorized under sections 2 to 5,
39 chapter 636, Oregon Laws 2009, is sited must be at least one-quarter mile from the nearest state
40 park.

41 (b) Any buildings or other improvements developed within the boundaries of land on which a
42 small-scale recreation community authorized under sections 2 to 5, chapter 636, Oregon Laws 2009,
43 is sited must be located at least one mile from the nearest state park.

44 **(7) Approval by a county of an application for a small-scale recreation community shall**
45 **be deemed to constitute an acknowledged exception under ORS 197.732 to any applicable**

1 **statewide land use planning goal with which the use would not otherwise comply.**

2 **SECTION 2.** Section 5, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 888,
3 Oregon Laws 2009, is amended to read:

4 **Sec. 5.** (1) An application for a small-scale recreation community under sections 2 to 5,
5 chapter 636, Oregon Laws 2009, may be filed only by the owner of a Metolius resort site and the
6 owner of the site on which development of the small-scale recreation community is proposed and
7 must be filed jointly by the owners. The owners shall file a copy of the application with the De-
8 partment of Land Conservation and Development at the same time that the owners file the applica-
9 tion with the county having land use jurisdiction over the proposed development site.

10 (2) A county shall review an application for a small-scale recreation community under sections
11 2 to 5, chapter 636, Oregon Laws 2009, as a [*conditional use in a forest zone*] **use permitted under**
12 **section 3 (4)(a), chapter 636, Oregon Laws 2009,** and as a land division under ORS chapter 92.

13 (3) In addition to the standards set forth in sections 2 to 5, chapter 636, Oregon Laws 2009, the
14 **applicant for a** small-scale recreation community must [*meet the land division standards and other*
15 *development standards of the county, including standards for streets, utilities and services, unless the*
16 *standards conflict with sections 2 to 5, chapter 636, Oregon Laws 2009. If the development standards*
17 *of the county are dependent on the zoning of the site, the county shall apply the development standards*
18 *for the county's most dense rural residential zone*] **demonstrate to the county that streets, utili-**
19 **ties and services adequate to serve the small-scale recreation community are available or**
20 **will be made available prior to occupancy of the small-scale recreation community.**

21 (4) If more than two applications for a small-scale recreation community are filed under sections
22 2 to 5, chapter 636, Oregon Laws 2009, and a county has not yet approved an application, the de-
23 partment shall determine which of the applications may proceed, taking into consideration:

24 (a) The time at which each application was filed;

25 (b) The unemployment rate in the counties, if more than one county is involved; and

26 (c) The findings set forth in section 1, chapter 636, Oregon Laws 2009.

27 (5) When two applications for small-scale recreation communities have been approved, additional
28 applications may not be considered.

29 (6) A county may charge a fee to cover the costs of processing an application.

30 **SECTION 3.** ORS 197A.405 is amended to read:

31 197A.405. (1) The Land Conservation and Development Commission shall establish and imple-
32 ment an economic development pilot program. Notwithstanding any statewide land use planning goal
33 provisions specifying requirements for amending urban growth boundaries, the commission shall
34 adopt rules to implement the pilot program. The pilot program is intended to:

35 (a) Promote economic development in a rural area; and

36 (b) Promote industry growth and job creation.

37 (2) Under the rules adopted under this section, the commission shall establish a site selection
38 process by which the commission shall select one pilot program site from a city [*located not less than*
39 *100*]:

40 (a) **Whose urban growth boundary is at least 78 air miles from [a] the urban growth**
41 **boundary of any** city with a population of 300,000 or more; and

42 (b) **That is** located in a county with at least eight percent unemployment over the preceding
43 five-year period.

44 (3) A city may nominate a site adjacent to its urban growth boundary for participation in the
45 pilot program.

1 (4) When nominating a pilot program site for the site selection process, a city shall:

2 (a) Submit a concept plan for the pilot program, including a list of goals for the master plan for
3 economic development of the proposed site and any proposed amendments to the comprehensive plan
4 or land use regulations required to implement the master plan; and

5 (b) Demonstrate that the proposed pilot program site meets the requirements described in sub-
6 section (5) of this section.

7 (5) The commission shall select a pilot program site that is:

8 (a) Adjacent to the city's existing urban growth boundary;

9 (b) Adjacent to an airport with an approved airport master plan;

10 (c) Near public facilities and services, including roadways; and

11 (d) Planned and zoned for commercial or industrial uses that are compatible with aviation uses,
12 as determined by the commission.

13 **SECTION 4.** ORS 197A.407 is amended to read:

14 197A.407. (1) Notwithstanding ORS [197.298] **197A.320** and without regard to whether an urban
15 growth boundary already contains a 20-year supply of buildable lands, the Land Conservation and
16 Development Commission by rule may establish an expedited process for amending urban growth
17 boundaries to include the pilot program site selected under ORS 197A.405.

18 (2) An amendment to an urban growth boundary pursuant to this section must identify the spe-
19 cific goal and rule requirements related to urban growth boundaries from which the city is exempt
20 for the purpose of implementing the pilot program.

21 (3) A pilot program site included within an urban growth boundary amended pursuant to this
22 section must:

23 (a) Be dedicated to economic development; and

24 (b) Remain planned and zoned for commercial or industrial uses that are compatible with avi-
25 ation uses as otherwise provided in rules adopted pursuant to ORS 197A.405.

26 **SECTION 5. This 2018 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect**
28 **on its passage.**

29