

SITING OF DESTINATION RESORTS

197.435 Definitions for ORS 197.435 to 197.467. 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 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.

(b) With respect to lands in eastern Oregon, as defined in ORS 321.805, permanent, separately rentable accommodations that are not available 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 38 weeks per calendar year through a central reservation system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.

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

site.

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

(8) "Visitor-oriented accommodations" means overnight lodging, restaurants and meeting facilities that are designed to and provide for the needs of visitors rather than year-round residents. [1987 c.886 §3; 1989 c.648 §52; 1993 c.590 §1; 2003 c.812 §1; 2005 c.22 §140]

197.440 Legislative findings. The Legislative Assembly finds that:

(1) It is the policy of this state to promote Oregon as a vacation destination and to encourage tourism as a valuable segment of our state's economy;

(2) There is a growing need to provide year-round destination resort accommodations to attract visitors and encourage them to stay longer. The establishment of destination resorts will provide jobs for Oregonians and contribute to the state's economic development;

(3) It is a difficult and costly process to site and establish destination resorts in rural areas of this state; and

(4) The siting of destination resort facilities is an issue of statewide concern. [1987 c.886 §2]

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

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

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

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

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

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

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

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

(C) The remaining overnight lodging units must be provided as individually owned lots or units subject to deed restrictions that limit their use to use as overnight lodging

units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by this subsection.

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

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

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

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

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

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

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

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

(F) If the developer of a resort guarantees the overnight lodging units required under subparagraphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within four years of the date of execution of the surety bond or other equivalent financial assurance.

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

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

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

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

(c) On such secondary lands as the Land Conservation and Development Commission deems appropriate.

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

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

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

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

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

(e) Residential uses must be limited to those necessary for the staff and management of the resort.

(f) The governing body of the county or its designee has reviewed the resort proposed under this subsection and has determined that the primary purpose of the resort is to

provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing stream.

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

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

(B) On-site identification and directional signs.

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

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

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

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

(c) For a resort counting individually owned units as qualified overnight lodging units, the number of weeks that each overnight lodging unit is available for rental to the general public as described in ORS 197.435. [1987 c.886 §4; 1993 c.590 §2; 2003 c.812 §2; 2005 c.22 §141; 2007 c.593 §1]

197.450 Siting without taking goal exception. In accordance with the provisions of ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, a comprehensive plan may provide for the siting of a destination resort on rural lands without taking an exception to statewide planning goals relating to agricultural lands, forestlands, public facilities and services or urbanization. [1987 c.886 §5]

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

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

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

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

thereof.

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

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

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

(2) In carrying out subsection (1) of this section, a county shall adopt, as part of its comprehensive plan, a map consisting of eligible lands within the county. The map must be based on reasonably available information and may be amended pursuant to ORS 197.610 to 197.625, but not more frequently than once every 30 months. The county shall develop a process for collecting and processing concurrently all map amendments made within a 30-month planning period. A map adopted pursuant to this section shall be the sole basis for determining whether tracts of land are eligible for destination resort siting pursuant to ORS 197.435 to 197.467. [1987 c.886 §6; 1993 c.590 §3; 1997 c.249 §57; 2003 c.812 §3; 2005 c.22 §142; 2005 c.205 §1]

197.460 Compatibility with adjacent land uses; county measures. A county shall insure that a destination resort is compatible with the site and adjacent land uses through the following measures:

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

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

(a) Establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fences, berms, landscaped areas and other similar types of buffers.

(b) Setbacks of structures and other improvements from adjacent land uses. [1987 c.886 §7]

197.462 Use of land excluded from destination resort. A portion of a tract that is excluded from the site of a destination resort pursuant to ORS 197.435 (7) shall not be used or operated in conjunction with the resort. Subject to this limitation, the use of the excluded property shall be governed by otherwise applicable law. [1993 c.590 §7]

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

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

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

(3) Assure that developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding. [1987 c.886 §8]

197.467 Conservation easement to protect resource site. (1) If a tract to be used as a destination resort contains a resource site designated for protection in an acknowledged comprehensive plan pursuant to open spaces, scenic and historic areas and natural resource goals in an acknowledged comprehensive plan, that tract of land shall preserve that site by conservation easement sufficient to protect the resource values of the resource site as set forth in ORS 271.715 to 271.795.

(2) A conservation easement under this section shall be recorded with the property records of the tract on which the destination resort is sited. [1993 c.590 §5]