

B-Engrossed
House Bill 4031

Ordered by the Senate February 26
Including House Amendments dated February 15 and Senate Amendments
dated February 26

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.

Permits and regulates establishment of guest ranches on eastern Oregon exclusive farm use lands. Deems certain existing guest ranches conforming uses. Sunsets guest ranch provisions on April 15, 2020.

Provides that coastal county approval of application for small-scale recreation community subject to federal licensure 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.

Limits applicability of certain accessory dwelling unit allowances within urban growth boundary. Becomes operative July 1, 2018.

Reduces 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; creating new provisions; amending ORS 197.312, 197A.405 and 197A.407
3 and sections 3 and 5, chapter 636, Oregon Laws 2009; and declaring an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2018 Act are added to and made a part of ORS**
6 **chapter 215.**

7 **SECTION 2. (1) As used in this section and section 3 of this 2018 Act:**

8 (a) "Guest lodging unit" means a guest room in a lodge, bunkhouse, cottage or cabin used
9 only for transient overnight lodging and not for a permanent residence.

10 (b) "Guest ranch" means a facility for guest lodging units, passive recreational activities
11 described in subsection (6) of this section and food services described in subsection (7) of this
12 section that are incidental and accessory to an existing and continuing livestock operation
13 that qualifies as a farm use.

14 (c) "Livestock" means cattle, sheep, horses and bison.

15 (2) Subject to the provisions of ORS 215.296 (1) and (2) and other approval or siting
16 standards of a county, a guest ranch may be established in an area of eastern Oregon, as
17 defined in ORS 321.805, that is zoned for exclusive farm use unless the proposed site of the
18 guest ranch is within the boundaries of or surrounded by:

19 (a) A federally designated wilderness area or a wilderness study area;

20 (b) A federally designated wildlife refuge;

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 (c) A federally designated area of critical environmental concern; or

2 (d) An area established by an Act of Congress for the protection of scenic or ecological
3 resources.

4 (3) The guest ranch must be located on a lawfully established unit of land that:

5 (a) Is at least 160 acres;

6 (b) Contains the dwelling of the individual conducting the livestock operation; and

7 (c) Is not high-value farmland, as described in ORS 215.710.

8 (4) Except as provided in subsection (5) of this section, the guest lodging units of the
9 guest ranch cumulatively must:

10 (a) Include not fewer than four nor more than 10 overnight guest lodging units; and

11 (b) Not exceed a total of 12,000 square feet in floor area, not counting the floor area of
12 a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common
13 indoor space.

14 (5) For every increment of 160 acres that the lawfully established unit of land on which
15 the guest ranch is located exceeds the minimum 160-acre requirement described in sub-
16 section (3) of this section, up to five additional overnight guest lodging units not exceeding
17 a total of 6,000 square feet of floor area may be included in the guest ranch for a total of
18 not more than 25 guest lodging units and 30,000 square feet of floor area.

19 (6) A guest ranch may provide passive recreational activities that can be provided in
20 conjunction with the livestock operation's natural setting including, but not limited to,
21 hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may
22 not provide intensively developed recreational facilities, including golf courses as identified
23 in ORS 215.283.

24 (7) A guest ranch may provide food services only for guests of the guest ranch, individ-
25 uals accompanying the guests and individuals attending a special event at the guest ranch.
26 The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A
27 guest ranch may not sell individual meals to an individual who is not a guest of the guest
28 ranch, an individual accompanying a guest or an individual attending a special event at the
29 guest ranch.

30 **SECTION 3.** (1) Notwithstanding ORS 215.283, the governing body of a county or its
31 designee may not allow a guest ranch in conjunction with:

32 (a) A campground as described in ORS 215.283 (2).

33 (b) A golf course as described in ORS 215.283 (2).

34 (2) Notwithstanding ORS 215.263, the governing body of a county or its designee may not
35 approve a proposed division of land in an exclusive farm use zone for a guest ranch.

36 (3) The governing body of a county or its designee may not approve a proposed division
37 of land that separates the guest ranch from the dwelling of the individual conducting the
38 livestock operation.

39 **SECTION 4.** A guest ranch approved and established under section 1, chapter 728, Oregon
40 Laws 1997, as amended by section 1, chapter 216, Oregon Laws 1999, section 2, chapter 467,
41 Oregon Laws 2001, section 5, chapter 544, Oregon Laws 2001, section 1, chapter 147, Oregon
42 Laws 2003, section 107, chapter 621, Oregon Laws 2003, and section 1, chapter 258, Oregon
43 Laws 2005, and made nonconforming by repeal of chapter 728, Oregon Laws 1997, by section
44 5, chapter 728, Oregon Laws 1997, as amended by section 3, chapter 467, Oregon Laws 2001,
45 and section 3, chapter 258, Oregon Laws 2005, or approved and established under section 2,

1 chapter 84, Oregon Laws 2010, as amended by section 1, chapter 451, Oregon Laws 2011, and
2 made nonconforming by repeal of chapter 84, Oregon Laws 2010, by section 6, chapter 84,
3 Oregon Laws 2010, as amended by section 2, chapter 451, Oregon Laws 2011, is deemed a
4 conforming use under section 2 of this 2018 Act.

5 **SECTION 5.** A county shall amend its land use regulations to conform to the require-
6 ments of sections 2, 3 and 4 of this 2018 Act. Notwithstanding contrary provisions of state
7 law or a county charter relating to public hearings on amendments to an ordinance, a county
8 may adopt amendments to its land use regulations required by this section without holding
9 a public hearing and without adopting findings if:

10 (1) The county has given notice to the Department of Land Conservation and Develop-
11 ment of the proposed amendments in the manner provided by ORS 197.610; and

12 (2) The department has confirmed in writing that the only effect of the proposed
13 amendments is to conform the county's land use regulations to the requirements of sections
14 2, 3 and 4 of this 2018 Act.

15 **SECTION 6.** Sections 1, 2, 3, 4 and 5 of this 2018 Act are repealed on April 15, 2020.

16 **SECTION 7.** ORS 197.312 is amended to read:

17 197.312. (1) A city or county may not by charter prohibit from all residential zones attached or
18 detached single-family housing, multifamily housing for both owner and renter occupancy or manu-
19 factured homes. A city or county may not by charter prohibit government assisted housing or impose
20 additional approval standards on government assisted housing that are not applied to similar but
21 unassisted housing.

22 (2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a
23 permitted use in any residential or commercial zone that allows single-family dwellings as a per-
24 mitted use.

25 (b) A city or county may not impose a zoning requirement on the establishment and maintenance
26 of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential
27 or commercial zone described in paragraph (a) of this subsection that is more restrictive than a
28 zoning requirement imposed on other single-family dwellings in the same zone.

29 (3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted
30 use in any residential or commercial zone that allows multifamily housing generally as a permitted
31 use.

32 (b) A city or county may not impose a zoning requirement on the establishment and maintenance
33 of multifamily housing for farmworkers and farmworkers' immediate families in a residential or
34 commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning
35 requirement imposed on other multifamily housing in the same zone.

36 (4) A city or county may not prohibit a property owner or developer from maintaining a real
37 estate sales office in a subdivision or planned community containing more than 50 lots or dwelling
38 units for the sale of lots or dwelling units that remain available for sale to the public.

39 (5)(a) A city with a population greater than 2,500 or a county with a population greater than
40 15,000 shall allow in areas **within the urban growth boundary that are** zoned for detached
41 single-family dwellings the development of at least one accessory dwelling unit for each detached
42 single-family dwelling, subject to reasonable local regulations relating to siting and design.

43 (b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached
44 residential structure that is used in connection with or that is accessory to a single-family dwelling.

45 **SECTION 8.** Section 3, chapter 636, Oregon Laws 2009, as amended by section 1, chapter 888,

1 Oregon Laws 2009, section 1, chapter 404, Oregon Laws 2011, section 1, chapter 748, Oregon Laws
2 2015, and section 1, chapter 494, Oregon Laws 2017, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (A) Baker County;

33 (B) Clatsop County;

34 (C) Columbia County;

35 (D) Coos County;

36 (E) Crook County;

37 (F) Curry County;

38 (G) Douglas County;

39 (H) Grant County;

40 (I) Harney County;

41 (J) Josephine County;

42 (K) Klamath County;

43 (L) Lake County;

44 (M) Lincoln County;

45 (N) Linn County;

- 1 (O) Malheur County;
- 2 (P) Morrow County;
- 3 (Q) Sherman County;
- 4 (R) Umatilla County;
- 5 (S) Wallowa County;
- 6 (T) Wasco County; or
- 7 (U) Wheeler County.

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

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

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

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

14 [(B) *Estuarine resources; or*]

15 **(B) Natural or conservation management unit requirements for estuarine resources; or**

16 (C) Beaches and dunes.

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

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

23 **(7) If a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of this section approves**
24 **an application for a small-scale recreation community that also requires a federal license or**
25 **permit, that approval shall be deemed to constitute an acknowledged exception under ORS**
26 **197.732 to any applicable statewide land use planning goal with which the use would not**
27 **otherwise comply.**

28 **SECTION 9.** Section 5, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 888,
29 Oregon Laws 2009, is amended to read:

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

36 (2) A county shall review an application for a small-scale recreation community under sections
37 2 to 5, chapter 636, Oregon Laws 2009, as a [*conditional use in a forest zone*] **use permitted under**
38 **section 3 (4)(a), chapter 636, Oregon Laws 2009,** and as a land division under ORS chapter 92.

39 (3) In addition to the standards set forth in sections 2 to 5, chapter 636, Oregon Laws 2009, the
40 **applicant for a** small-scale recreation community must [*meet the land division standards and other*
41 *development standards of the county, including standards for streets, utilities and services, unless the*
42 *standards conflict with sections 2 to 5, chapter 636, Oregon Laws 2009. If the development standards*
43 *of the county are dependent on the zoning of the site, the county shall apply the development standards*
44 *for the county’s most dense rural residential zone*] **demonstrate to the county that streets, utili-**
45 **ties and services adequate to serve the small-scale recreation community are available or**

1 **will be made available prior to occupancy of the small-scale recreation community.**

2 (4) If more than two applications for a small-scale recreation community are filed under sections
3 2 to 5, chapter 636, Oregon Laws 2009, and a county has not yet approved an application, the de-
4 partment shall determine which of the applications may proceed, taking into consideration:

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

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

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

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

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

11 **SECTION 10.** ORS 197A.405 is amended to read:

12 197A.405. (1) The Land Conservation and Development Commission shall establish and imple-
13 ment an economic development pilot program. Notwithstanding any statewide land use planning goal
14 provisions specifying requirements for amending urban growth boundaries, the commission shall
15 adopt rules to implement the pilot program. The pilot program is intended to:

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

17 (b) Promote industry growth and job creation.

18 (2) Under the rules adopted under this section, the commission shall establish a site selection
19 process by which the commission shall select one pilot program site from a city [*located not less than*
20 *100*]:

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

23 (b) **That is** located in a county with at least [*eight*] **seven** percent unemployment over the pre-
24 ceding five-year period.

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

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

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

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

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

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

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

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

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

39 **SECTION 11.** ORS 197A.407 is amended to read:

40 197A.407. (1) Notwithstanding ORS [*197.298*] **197A.320** and without regard to whether an urban
41 growth boundary already contains a 20-year supply of buildable lands, the Land Conservation and
42 Development Commission by rule may establish an expedited process for amending urban growth
43 boundaries to include the pilot program site selected under ORS 197A.405.

44 (2) An amendment to an urban growth boundary pursuant to this section must identify the spe-
45 cific goal and rule requirements related to urban growth boundaries from which the city is exempt

1 for the purpose of implementing the pilot program.

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

4 (a) Be dedicated to economic development; and

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

7 **SECTION 12. The amendments to ORS 197.312 by section 7 of this 2018 Act become op-
8 erative on July 1, 2018.**

9 **SECTION 13. This 2018 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect
11 on its passage.**

12
