

# LEGISLATIVE CONCEPT

Agency No./Concept No. 660/3

Date April 4, 2008

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Agency DLCD

Division/Program Director's Office

Concept Subject/Title Amendments to Destination Resort Statutory Requirements

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◆ **BRIEF DESCRIPTION OF THIS CONCEPT:**

The purpose of this concept is to authorize LCDC to study and revise destination resort planning and approval requirements. This would be done by removing some statutory provisions relating to destination resorts, while retaining these identical provisions in Goal 8, and retaining certain key components and general principles in statute, such as the intent and overarching principles of the state's destination resort policy. The statutory provisions that would be retained include: protections of high value cropland, critical habitat, the Columbia River Gorge National Scenic Area, and other locational limitations. The legislation would direct LCDC to evaluate the state's destination resort policies and its implementation, update certain requirements, and address issues (identified in the legislation) through special studies and, as necessary, through amendments to Goal 8 or the adoption of administrative rules. The issues to be studied and addressed may include the following:

- The adequacy of siting provisions to ensure that resorts function as originally intended – to attract and serve visitors and tourism – rather than as residential or second-home subdivisions or as suburban communities competing with urban areas.
- Impacts of existing and planned resorts on nearby urban areas, including impacts of large amounts of ex-urban permanent resort housing on nearby communities and on facilities and service providers.
- Protection of important natural resources impacted by destination resorts, including farm and forest resources, water resources, and natural areas and habitats, along with requirements for identifying and evaluating such resources prior to resort approval.
- The adverse effects of concentrations of destination resorts in particular regions, especially Central Oregon, and consideration of possible limits to the number of resorts and/or the number of permanent dwelling units allowed in a particular region or county (possibly with trading allowed among regions or counties).
- Provisions to avoid/mitigate transportation and wildlife impacts from concentrations of resorts in particular counties or regions.
- Whether there should be limits to the overall “size” (in particular, the number of dwelling units) allowed in individual resorts or in clusters of resorts, and limits to the expansion of existing resorts; and the whether conversion of existing rural developments to destination resorts should be allowed.
- Equity among counties regarding destination resort development potential.
- Consideration of natural hazards, particularly wildfires, in destination resort siting.
- Affordable housing and workforce housing concerns in resorts and nearby communities

◆ **PURPOSE OF THIS CONCEPT (DESCRIBE PROBLEM YOU ARE TRYING TO SOLVE AND SUGGESTED SOLUTION):**

Statewide provisions allowing the siting of destination resorts outside urban growth boundaries on farm or forest land without consideration or exception to farm and forestland goals (and other goals) were originally adopted by LCDC in 1984 through amendments to Statewide Planning Goal 8. However, in 1987 the entire content of Goal 8 was added to state law (ORS 197.435 – 197.465), at the request of destination resort interests. Consequently, LCDC has a very limited ability to revise and update destination resort land use policies – none of LCDC's key Goal 8 requirements regarding destination resorts can be modified without

concurrent amendments to state law. Over time, LCDC's inability to update destination resort requirements to account for changing circumstances has resulted in several problems, including:

- Concentrations of resorts have occurred and continue to increase in proximity to Central Oregon cities, without adequate assessment of the major impacts that these resorts (existing and planned) may have on nearby urban areas, transportation and other public facilities, natural resources in the region including water resources and sensitive wildlife habitat, and wildfire or other natural hazards. More resorts are in the planning or approval process and large rural areas are mapped and zoned to allow new destination resort development.
- Resorts have increasingly taken on the character of residential or second-home subdivisions rather than as unique and special developments intended to attract and serve visitors and tourism. This has significant effects on statewide land use policies intended to concentrate permanent residential development in urban growth boundaries, especially with regard to the effectiveness of those policies in containing exurban residential development and urban sprawl in Central Oregon.
- Resort siting criteria, such as requirements to ensure high quality developed recreational amenities anchoring destination resorts, have not been revised and updated to account for present-day market and inflation factors. One result of this is that, by today's standards, a relatively modest investment in a golf course may qualify a rural residential development area as a "destination resort."
- Piecemeal amendments to statutory resort requirements enacted by the legislature over the past two decades have cumulatively reduced certain safeguards provided in the original destination resort requirements adopted by LCDC (e.g., relaxation of the ratio for permanent housing to overnight lodging, and removal of provisions that required a comprehensive periodic review of the county land use plan prior to county map amendments to authorize resorts).

◆ POLICY IMPLICATIONS:

Amendments to Goal 8 and the statute were originally adopted with the expectation that destination resorts are an economic development strategy to attract tourists and visitors for longer stays. In recently-constructed resorts in Central Oregon, the emphasis appears to be primarily on creating high end primary and second home subdivisions rather than developments whose primary objective is to attract and serve visitors. Many resorts have taken on characteristics of large planned developments with a large component of permanent housing that, under Oregon's statewide planning system, is supposed to be provided for inside UGBs. This has serious transportation and other impacts especially with regard to the concentration of resorts in Central Oregon. Some of the related policy issues that need to be addressed regarding the growing number of destination resorts in certain areas include:

- Impacts on natural resources, especially water and sensitive habitat areas
- Increased demand for ex-urban public services – schools, health care, transportation, fire protection
- Competition with nearby cities for higher-end housing (i.e., city tax base impacts)
- Transportation impacts, especially impacts on the state highway system.
- Increased demand for rural lots due to resorts, which increases farm and forest land costs and potentially undermines the viability and expansion of commercial farm and forest operations
- Opposition to farm and forest industry practices by resort residents

The Department of Fish and Wildlife has identified several policy implications with the proliferation of resorts. ODFW has experienced inconsistent implementation of mitigation requirements for destination resorts in Oregon, including:

- Lack of ability to implement agreed-upon mitigation actions;
- Wildlife impacts are only assessed on site (adjacent off-site impacts are not included in any wildlife habitat impact analysis); and

- Lack of cumulative impact assessment.

The result has been a net loss of fish and wildlife habitat due to destination resorts in the state. As such, this proposed legislation would provide an opportunity to ensure that resorts do not further compromise the protection of:

- Big game winter range
- County-adopted Goal 5 resource areas
- Areas within 1 ½ miles of big game winter range (disturbance)
- Areas within 6 miles of sage grouse leks
- Migration corridors
- Oregon Conservation Strategy Conservation Opportunity Areas
- Identified critical habitat for federally listed T&E species
- Sensitive forest habitat not addressed under Statewide Planning Goal 5

◆ PARTNERS OR OTHER AGENCIES AFFECTED:

<u>Agency:</u>	<u>Person you talked to about concept:</u>	<u>Phone:</u>
ODOT	Matt Garrett and Doug Tindall	503-986-3435
ODFW	Patty Snow and Roy Elicker	503-947-6089
WRD	Phil Ward	503-986-0900
ODA	Katy Coba, Jim Johnson	503-986-4706
ODF	Ten Lorensen, Jim Paul	503-945-7206

◆ KNOWN SUPPORT

ODOT, ODFW, WRD, ODA, 1000 Friends, Central Oregon Land Watch

◆ KNOWN OPPOSITION:

None known at this time but anticipate opposition from resort development interests and possibly from some counties.

◆ THIS CONCEPT: (Do not skip answers. Enter *none* or *N/A* as needed.)

Revises or repeals ORS ORS 197.435 to 197.465

Adds new sections to ORS Chapter NA

Check one:  Major program change     Minor program change     Technical correction/housekeeping only

Was previously proposed in: Year No as Bill No. NA

Why are you proposing it again (what changed)? NA

Is a PLACEHOLDER? No  Yes  Expected date of completion: NA

Reason not completed: NA

Is due to legal decision: NA Case cite: NA or AGO No./date NA (*attach copy*)

Raises fees or assessments? No  Yes  (*attach Fiscal Impact Estimate*)

Imposes or adds to unfunded mandate on local governments? No  Yes  (*attach Fiscal Impact Estimate*)

Has other fiscal or position impacts? No  Yes  (*attach Fiscal Impact Estimate*)

Have you discussed this Concept with your Attorney General liaison? No  Yes

**APPROVED FOR DRAFTING**

Department of Administrative Services

Date

Governor's Office

Date