

## ARTICLE 50

# Destination Resort

### SECTION 3.50.000 Purpose

The purpose of this Article is to provide a mechanism for implementing statutory provisions for destination resorts. A Destination Resort (DR) is intended to allow properly designed and sited facilities that will attract tourists for longer visits from greater distances. The procedures in this Article are intended to ensure that both large and small scale destination resorts will be primarily visitor oriented developments that are designed and developed in harmony with the surrounding uses and features.

### SECTION 3.50.010 Definitions

Words and phrases used in this Article which are defined in ORS 197.435 through 197.467 shall have the same definition.

### SECTION 3.50.020 Permitted Uses

As part of a Destination Resort, the following uses may be permitted, in order to serve the resort visitors:

1. Housing facilities including but not restricted to the following: Lodges, hotels, motels, single-family dwellings, multi-family dwellings, camping sites for tent camping and self contained units. However, camping sites do not qualify as overnight lodgings.
2. Convention Facilities.
3. Shops and stores distributing goods and services intended only for the visitors of the resort and the support personnel.
4. Restaurants, lounges and similar establishments.
5. All manner of outdoor and indoor recreational facilities, including but not limited to the following: tennis, racquetball, volleyball, and handball courts; hiking, horseback riding, running, skiing, snowmobiling, and bicycle trails; boating and swimming facilities; and golf courses.
6. Public utility facilities.
7. Other uses as permitted in the underlying zone.

**SECTION 3.50.050 Standards and Criteria for Large Scale Destination Resorts**

1. **Siting Exclusions:** Destination Resorts, including those being sited in accordance with Section 3.50.075, shall not be located on a site identified as an area excluded from Destination Resort Siting process by the Comprehensive Plan. A map delineating areas eligible for DR siting is in the Comprehensive Plan Park and Recreation Element.
2. **Commercial Uses:** All commercial development shall be located on-site and designed and constructed in a style, scale, and location appropriate to serve only the perceived needs of the resort visitors. No industrial uses for the site will be permitted.
3. **Open Space:** At least fifty percent of the site shall be dedicated permanent open space excluding streets and parking areas.
4. **Size:** The resort shall be located on a site within a tract of at least one hundred and sixty acres or forty acres if located within two miles of the ocean. The tract on which the Destination Resort is proposed may include ineligible land pursuant to ORS 197.462 provided that the ineligible land is not part of the minimum Destination Resort acreage.
5. **Self Contained:** The resort shall be a self contained unit. All support facilities shall be constructed on-site. Proof of water rights shall be provided by the developer. Septic or limited sewer systems shall meet DEQ guidelines. Sewer and water services may be provided by an existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development.
6. **Minimum Investment:** At least seven million dollars shall 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 except that any application submitted prior to the November 1995 amendments to this subsection shall be subject to the previous minimum investment standard. Not less than one-third of this amount shall be spent on developed recreational facilities. Recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through performance bonding mechanisms specified in Section 3.50.200 of this Article.
7. **Visitor-Oriented Accommodations:** The resort will minimally provide as its visitor-oriented accommodations: Meeting rooms, restaurant(s) with seating for one hundred (100) persons, and one hundred and fifty (150) separate rentable units for overnight lodging. The rentable units may be phased in pursuant to ORS 197.445(4) provided that all overnight lodging units are built within five years of final approval. Accommodations available for residential use shall not exceed two such units for each unit of overnight

lodging. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least forty-five (45) weeks per calendar year through a central reservation and check in/out service. Such availability shall be a condition of ownership for individually owned units if same units are to be considered part of the rentable lodging.

A guarantee to physically provide visitor oriented accommodations will be made through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units.

8. Resources Protection: Compatibility with the site and adjacent land uses shall be insured through the following measures:
  - a. Important natural features, including habitat of threatened or endangered species, streams, rivers, and significant wetlands shall be maintained. Riparian vegetation within one hundred (100) feet of streams, rivers, and significant wetlands shall be maintained. Alterations to important natural features, including placement of structures which maintain the overall values of the feature may be allowed.
  - b. 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:
    - (1) 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.
    - (2) Setbacks of structures and other improvements from adjacent land uses.
    - (3) Resource Management Covenant.
  - c. If the DR site contains a goal 5 resource that is identified for protection in the Comprehensive Plan, a conservation easement as set forth in ORS 271.715 through 271.795 sufficient to protect the resource values of the goal 5 resource shall be recorded as a deed restriction on the subject tract.

### **SECTION 3.50.075 Standards and Criteria for Small Scale Destination Resorts**

1. In accordance with ORS 197.445(6) an alternate set of standards for small scale Destination Resorts may be applied on:

- a. land that is not defined as agricultural or forest land under any statewide planning goal;
  - b. land where there has been an exception to any state-wide planning goal on agricultural lands, forest land, public facilities and services and urbanization; or
  - c. such secondary lands as LCDC deems appropriate.
2. If a parcel meets the conditions of Section 3.50.075.1, then the following standards apply:
- a. The resort shall be located on a site of 20 acres or more.
  - b. At least two million dollars shall be spent on improvements for onsite 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 shall be spent on developed recreational facilities.
  - c. At least 25 units, but not more than 75 units, of overnight lodging shall be provided.
  - d. Restaurant and meeting room with at least one seat for each unit of overnight lodging shall be provided.
  - e. Residential uses shall be limited to those necessary for the staff and management of the resort.
  - f. The county must review the resort proposed under these conditions and shall determine 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 shall be designed and located so that it is not oriented to transient highway traffic. Resorts shall not use any manner of outdoor advertising signing except:
    - (1) Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
    - (2) Onsite identification and directional signs.
  - h. Commercial uses shall be limited to types and levels necessary to meet the needs of visitors to the development. Industrial uses of any kind are not permitted.

3. Resources Protection: Compatibility with the site and adjacent land uses shall be insured through the following measures:
  - a. Important natural features, including habitat of threatened or endangered species, streams, rivers, and significant wetlands shall be maintained. Riparian vegetation within one hundred (100) feet of streams, rivers, and significant wetlands shall be maintained. Alterations to important natural features, including placement of structures which maintain the overall values of the feature may be allowed.
  - b. 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:
    - (1) 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.
    - (2) Setbacks of structures and other improvements from adjacent land uses.
    - (3) Resource Management Covenant.
  - c. If the DR site contains a goal 5 resource that is identified for protection in the Comprehensive Plan, a conservation easement as set forth in ORS 271.715 through 271.795 sufficient to protect the resource values of the goal 5 resource shall be recorded as a deed restriction on the subject tract.

### **SECTION 3.50.100 Process for Approval of Destination Resort Site Plan**

1. The Destination Resort Overlay is applied by the Comprehensive Plan to all areas not excluded by Destination Resort siting exclusions. A Destination Resort may be approved in any underlying zone except industrial so long as the site is not excluded from application of the DR Overlay by the Comprehensive Plan.
2. In the case of a conflict between a provision of the underlying zone and that of this Article, the provisions here shall apply.
3. The applicant shall make application as provided in 2.060.1 and submit to the Planning Director a Preliminary Site Plan designed to implement the requirements of this Article.

4. The Planning Director may approve, subject to the provisions of §2.060.1, the Destination Resort Preliminary Site Plan. The Director may approve, subject to the provisions of §2.060.2 and the requirements of this Article, the Destination Resort Final Site Plan.
5. Destination Resort development within the DR Overlay requires approval of a Destination Resort Preliminary Site Plan and Final Site Plan as provided in this Article.

### **SECTION 3.50.150 Destination Resort Preliminary Site Plan Approval**

Approval of a Destination Resort preliminary site plan is an Administrative Action subject to the provisions of §2.060.1 of this Ordinance.

1. An application for Destination Resort preliminary site plan approval shall be initiated as provided in Chapter 2 of this Ordinance. If the site is to be divided, then the application shall also address either §4.150 or §4.250 of this Ordinance. In the case of a conflict between a provision of Chapter 4 and that of this Article, the provision in this Article shall apply.
2. The Destination Resort preliminary site plan shall consist of the following:
  - a. A written report containing:
    - (1) A legal description of the total site proposed for development, including a statement of present and proposed ownership. If the development is to be constructed in phases, a construction schedule with proposed facilities and costs will be included.
    - (2) A discussion concerning the compatibility of the designed resort with the natural features of the site and adjacent land uses, in accordance with Sections 3.50.050.8 or 3.50.075.3, Resource Protection. Included will be a discussion of the measures which will be employed to mitigate anticipated problems, conflicts, and/or hazards. If the resort will be located on a tract in a farm zone, then findings shall describe how the use would not:
      - i. force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
      - ii. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (3) A report describing the water supply system, sewage management system, and storm drain management system.
  - (4) Quantitative data for the following: total acreage; acreage of open space; the location and number of acres to be developed; the number and type of lodging accommodations; and the number and type of developed recreational facilities and opportunities.
  - (5) A description of the residential unit types and commercial buildings proposed, including typical lot and building configuration and typical architectural character.
  - (6) A description of the proposed central reservation and check in/out service.
  - (7) A business plan describing the marketing, management, and financial aspects of the project. The plan should address the economic viability of the project, the fiscal impacts on Douglas County and surrounding communities, the necessity of other goods and services required from the surrounding region, and the changes on employment.
  - (8) Other information as may be required by the Planning Director.
- b. Site Plan and Supporting Maps: A detailed site plan and any maps necessary to show the major components of the proposed Destination Resort shall be prepared by a licensed engineer or architect, and shall contain the following minimum information:
- (1) The existing site conditions, including natural features, hazards, buildings, water courses, and vegetation.
  - (2) Proposed lot lines and layout design including a preliminary subdivision or partition plan addressing §4.150 or §4.250 (as appropriate) if the land is to be divided.
  - (3) The location and size of all areas to be conveyed, dedicated, or reserved as open space or recreational areas.
  - (4) The existing and proposed pedestrian and vehicular circulation system, including access points, parking, loading, and service areas.
  - (5) The existing and proposed systems for providing sewage disposal, water, electricity, gas, fire protection, and telephone services.

- (6) A landscape plan of all developed land.
  - (7) Proposed recreational facilities and opportunities.
  - (8) Any maps as may be required by the Planning Director.
3. The Approving Authority shall decide on the Destination Resort preliminary site plan application as provided in Chapter 2 of this Ordinance and shall approve the preliminary site plan if it meets the development standards of Sections 3.50.050 or 3.50.075 as appropriate.
  4. The approving authority may impose conditions or modifications on the preliminary site plan approval necessary to meet the requirements or purposes of Section 3.50.000.

### **SECTION 3.50.175 Development Phasing, Duration of Approval, and Extensions**

1. If the preliminary site plan provides for phased development, such phasing shall meet the standards in §5.300 of this Ordinance.
2. Duration of Destination Resort preliminary site plan approval shall be the same as that specified in §5.350 of this Ordinance.
3. Extensions of Destination Resort preliminary site plan approval shall be the same as that specified in §5.400 of this Ordinance.

### **SECTION 3.50.200 Destination Resort Final Site Plan Approval**

Approval of a Destination Resort final site plan by the Director shall be a ministerial act under §2.060.2.

1. Within twenty-four (24) months of the date of approval of the Destination Resort preliminary site plan, unless otherwise specified pursuant to Section 3.50.175 of this Section, the applicant shall submit a final site plan, prepared by an Oregon registered engineer, and supporting documents to the Director.
2. The final site plan shall include:
  - a. The site plan and maps submitted pursuant to Section 3.50.150.2.b in their final, detailed form, and including proof that an adequate, potable, year-round water supply is available for the development.
  - b. The documents submitted pursuant to Section 3.50.150.2.a amended to incorporate any conditions imposed on the preliminary site plan approval.



- c. Final subdivision plat or partition map, if the land is to be divided. Such maps shall conform to §4.200 or §4.250 as applicable, except to accommodate special design standards under this chapter.
3. The Director shall require the applicant to enter into an agreement with the County (pursuant to Section 3.50.200.4) to complete all improvements (including recreational facilities, key facilities, and visitor oriented accommodations) required by the final development plan according to a schedule set forth in the agreement.
4. Agreement for Improvements
  - a. Before approval of the final site plan, the applicant shall either install the improvements required by the preliminary site plan approval and repair existing streets and other public facilities damaged in the development of the Destination Resort, or shall execute and file with the County an agreement between himself and the County specifying the period within which required improvements and repairs will be completed. The agreement may provide for the construction of the required improvements in phases. The agreement shall provide that if work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the applicant.
  - b. An applicant may request an extension of time for completion of required improvements. Such request will be considered an application for Ministerial Action. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him to fulfill the agreement within the original time limit(s).
  - c. The agreement for improvements may be nullified, as a major amendment pursuant to §4.300.3, upon a demonstration by the applicant that a major change in circumstances, beyond the control of the applicant, has made it impossible to continue the project to completion. The County may rescind the agreement for improvements after approval of the major amendment.
5. Performance Bond
  - a. To assure full performance of the improvement agreement, an applicant shall file one of the following:
    - (1) A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the County Counsel; or
    - (2) Cash deposit with the County Treasurer; or

- (3) Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the Director of Public Works. The bank certification or letter of assurance shall be approved by the County Counsel; or
  - (4) Cash deposit with an escrow agent authorized to transact business in the State of Oregon subject to escrow instructions that require the escrow agent to release the money only upon the direction of the Director of Public Works. Escrow instructions shall be approved by the County Counsel.
- b. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Director to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final site plan, including related engineering, and may include an additional percentage as determined by the Public Works Director to cover any inflationary costs which may be incurred during the construction period prior to the full and final completion of the project.
  - c. If the applicant fails to carry out provisions of the improvement agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the applicant shall be liable to the County for the difference.

#### 6. Action by the Director

The Director shall act on the application for final site plan approval within thirty (30) days of submittal, and shall approve the final site plan if he finds:

- a. The applicant has submitted all information and documents required pursuant to subsections 2, 3, 4, and 5 of this Section; and
- b. The final site plan is in substantial compliance with the approved preliminary site plan and any conditions imposed by the Approving Authority. Substantial compliance means that any differences between the final and preliminary site plans are "minor amendments," as defined in §3.50.250.

#### 7. Recording of Final Development Plans

The approved final site plan shall be recorded in the County Clerk's office.

**SECTION 3.50.225 Expiration of Final Site Plan Approval**

Expiration of final site plan approval shall be the same as that in §5.500.

**SECTION 3.50.250 Amendments**

Amendments to approved preliminary and final site plans shall be the same as that in §5.550.