

HB 4113-1
(LC 148)
2/26 (RLM/ps)

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 4113**

1 In line 2 of the printed bill, after “conservation” insert “; amending
2 sections 2, 3, 4 and 5, chapter 636, Oregon Laws 2009”.

3 Delete lines 4 through 9 and insert:

4 **“SECTION 1.** Section 2, chapter 636, Oregon Laws 2009, is amended to
5 read:

6 **“Sec. 2.** As used in sections 2 to 5, **chapter 636, Oregon Laws 2009 [of
7 this 2009 Act]:**

8 “(1) ‘Management plan’ means the management plan for the Metolius
9 River Basin that was recommended to the Legislative Assembly on April 2,
10 2009, by the Land Conservation and Development Commission.

11 “(2) ‘Metolius resort site’ means land mapped as eligible for destination
12 resort siting under ORS 197.455 by Jefferson County that has not been de-
13 veloped as a resort.

14 “[3) ‘Overnight lodgings’ has the meaning given that term in ORS
15 197.435.]

16 “[4] (3) ‘Tract’ has the meaning given that term in ORS 215.010.

17 **“SECTION 2.** Section 3, chapter 636, Oregon Laws 2009, as amended by
18 section 1, chapter 888, Oregon Laws 2009, section 1, chapter 404, Oregon
19 Laws 2011, section 1, chapter 748, Oregon Laws 2015, section 1, chapter 494,
20 Oregon Laws 2017, and section 8, chapter 15, Oregon Laws 2018, is amended
21 to read:

1 **“Sec. 3. (1) Notwithstanding ORS [215.700 to 215.780] chapter 215 or any**
2 **statewide land use planning goal relating to farm or forest use, a**
3 **county may approve** one or two [*small-scale recreation communities may be*
4 *established*] **conservation-offset housing opportunities** as specified in
5 sections 2 to 5, chapter 636, Oregon Laws 2009.

6 **“(2) On or before January 1, 2037**, the owner of a Metolius resort site
7 may apply to a county for approval of a [*small-scale recreation community*
8 *within three years after June 29, 2017*] **conservation-offset housing oppor-**
9 **tunity**, if:

10 “(a) Prior to June 29, 2010, the owner notified the Department of Land
11 Conservation and Development that the owner elected to seek approval of a
12 small-scale recreation community; [*and*]

13 “(b) The owner renews the election described in paragraph (a) of this
14 subsection within 30 days after June 29, 2017[.]; **and**

15 **“(c) Within 60 days after the effective date of this 2026 Act, the**
16 **owner notifies the department that it has elected to seek approval of**
17 **a conservation-offset housing opportunity.**

18 “(3) A [*small-scale recreation community*] **conservation-offset housing**
19 **opportunity** authorized under sections 2 to 5, chapter 636, Oregon Laws
20 2009, may be established only in conjunction with a transfer of development
21 opportunity from a Metolius resort site. A transfer of development opportu-
22 nity must be carried out through an agreement between the owner of a
23 Metolius resort site and the owner of the site proposed for development of
24 a [*small-scale recreation community*] **conservation-offset housing opportu-**
25 **nity**. In the agreement, the owner of the Metolius resort site must:

26 “(a) Agree to limit the use of the Metolius resort site, consistent with the
27 management plan in consideration for the opportunity to participate in the
28 development of the [*small-scale recreation community*] **conservation-offset**
29 **housing opportunity**; and

30 “(b) Agree to grant a conservation easement pursuant to ORS 271.715 to

1 271.795 that:

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

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

6 “(C) Contains other provisions, as required by the department [*of Land*
7 *Conservation and Development, that are necessary*] to ensure that the conser-
8 vation easement is enforceable.

9 “[(4)(a) *A small-scale recreation community authorized under sections 2 to*
10 *5, chapter 636, Oregon Laws 2009, must be sited on land that is within a*
11 *county described in paragraph (b) of this subsection and that is either or both*
12 *of the following:*]

13 “[(A) *Planned and zoned for forest use; or*]

14 “[(B) *Rural and not subject to statewide land use planning goals relating*
15 *to agricultural lands or forestlands.*]

16 “[(b) *A small-scale recreation community may be established in:*]

17 “[(A) *Baker County;*]

18 “[(B) *Clatsop County;*]

19 “[(C) *Columbia County;*]

20 “[(D) *Coos County;*]

21 “[(E) *Crook County;*]

22 “[(F) *Curry County;*]

23 “[(G) *Douglas County;*]

24 “[(H) *Grant County;*]

25 “[(I) *Harney County;*]

26 “[(J) *Josephine County;*]

27 “[(K) *Klamath County;*]

28 “[(L) *Lake County;*]

29 “[(M) *Lincoln County;*]

30 “[(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)] **(4)** [A small-scale recreation community authorized under sections 2

9 to 5, chapter 636, Oregon Laws 2009,] **A conservation-offset housing opportunity** 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 provision implementing statewide land use planning goals relating to:

12 “(A) Open space and scenic and historic areas;

13 “(B) Natural or conservation management unit requirements for estuarine resources; [or]

14 “(C) Beaches and dunes; **or**

15 **“(D) Prime or unique farm soils, as defined by the Natural Resources Conservation Service of the United States Department of Agriculture.**

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

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

18 “[(7)] **(5)** If [a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of

1 *this section]* **Clatsop, Coos, Curry, Douglas or Lincoln County** approves
2 an application for a *[small-scale recreation community]* **conservation-offset**
3 **housing opportunity** that also requires a federal license or permit, that
4 approval *[shall be deemed to constitute]* **constitutes** an acknowledged excep-
5 tion under ORS 197.732 to any applicable statewide land use planning goal
6 with which the use would not otherwise comply.

7 **“SECTION 3.** Section 4, chapter 636, Oregon Laws 2009, as amended by
8 section 2, chapter 888, Oregon Laws 2009, is amended to read:

9 **“Sec. 4. [(1)]** A *[small-scale recreation community]* **conservation-offset**
10 **housing opportunity** authorized under sections 2 to 5, chapter 636, Oregon
11 Laws 2009 *[(Enrolled House Bill 2228), must meet the following development*
12 *standards]:*

13 “**[(a)] (1)** *[The community]* Must be located on a tract that contains *[320]*
14 **200** or fewer acres of land.

15 “**[(b)] (2)** *[The community]* Must consist of *[240 or fewer units and have*
16 *as its primary purpose the provision of overnight lodging units]* **no more than**
17 **960 residential units.**

18 “**[(c)]** *The community may contain one restaurant containing 5,000 or fewer*
19 *square feet, and accessory uses necessary to the operation of the community,*
20 *including accessory recreational facilities.]*

21 “**[(d)]** *The owner of the property must spend at least \$1.5 million on off-site*
22 *resource enhancement or restoration projects on nearby public lands that will*
23 *be used by individuals from the community.]*

24 **“(3) Must have at least one-half of its residential units subject to**
25 **affordability restrictions, including affordable housing covenants as**
26 **described in ORS 456.270 to 456.295, that require for a period of not less**
27 **than 60 years that the units be available for purchase or rent with or**
28 **without government assistance, by households with incomes 130 per-**
29 **cent or less of the area median income as defined in ORS 456.270.**

30 **“(4) May include recreation and open space lands and lands for**

1 **commercial use, including mixed residential use.**

2 “(5) For residential uses, must be developed at a minimum of 10
3 units per net residential acre and include a diversity of housing types
4 and sizes, including middle housing, accessible housing and other
5 needed housing.

6 “(6) For commercial uses, must:

7 “(a) Primarily serve the residential uses of the conservation-offset
8 housing opportunity;

9 “(b) Provide goods and services at a smaller scale than provided on
10 typical lands zoned for commercial use; and

11 “(c) Be provided at the minimum amount necessary to support and
12 integrate viable commercial and residential uses.

13 “(7) Must be served by community water and sewer facilities pro-
14 vided on-site and limited to meet the needs of the development or
15 provided by existing public sewer or water service as long as all costs
16 related to service extension and any capacity increases are borne by
17 the development.

18 “[(e)] (8) [The community] May not include a golf course or related facil-
19 ties.

20 “[(f) The community must be developed and operated in a sustainable
21 manner by meeting the following criteria:]

22 “[(A)] (9) [When fully developed, the community] Must use reclaimed water
23 as the primary source of water for any irrigation of grounds.

24 “[(B) Facilities for snowmobiling or other motorized recreational activities
25 are not permitted.]

26 “[(C) At least 50 percent of the tract on which the community is located
27 must be dedicated to permanent open space that is contiguous and demon-
28 strates the biological viability of the site as habitat or that provides ecosystem
29 services to the area.]

30 “[(D)] (10) **Must preserve** significant natural resource functions and

1 values on the site [*must be preserved*].

2 “[*(E)*] **(11)** **May not use** impervious surfaces, including rooftops and
3 paved roads, trails and parking areas, **that** [*may not*] exceed 35 percent of
4 the total site area.

5 “[*(F)*] **(12)** [*Potable water usage*] Must achieve a 20 percent reduction **in**
6 **potable water usage** below standard code-built developments. Reclaimed
7 water usage for nonpotable water needs may account for the entire reduction
8 required.

9 “[*(G)*] **(13)** [*Stormwater must be managed*] **Must manage stormwater**
10 on-site. Off-site runoff must be limited to predevelopment runoff rates.

11 “[*(H) A restaurant, lodge or other nonresidential building must be designed*
12 *and constructed to meet regionally or nationally recognized design standards*
13 *for sustainable design that are acceptable to the county having land use ju-*
14 *risdiction over the proposed development site.*”]

15 “[*(I) Residential buildings must be designed and constructed to meet re-*
16 *gionally or nationally recognized design standards for sustainable design that*
17 *are acceptable to the county having land use jurisdiction over the proposed*
18 *development site. The developer must achieve certification for all buildings,*
19 *with at least 50 percent of the buildings achieving a top-tier rating under the*
20 *rating system selected.*”]

21 “[*(J) Additional housing capable of housing at least 50 percent of the peak*
22 *season employees must be provided on-site.*]”

23 “[*(2) In addition to the development standards described in subsection (1)*
24 *of this section, a small-scale recreation community must:*]”

25 “[*(a)*] **(14)** **Must** develop an environmental operations manual that de-
26 scribes core practices for operating the [*small-scale recreation community*]
27 **conservation-offset housing opportunity**, including:

28 “[*(A)*] **(a)** Waste reduction, recycling and diversion practices.

29 “[*(B)*] **(b)** Cleaning and site maintenance practices.

30 “[*(C)*] **(c)** Staff education practices.

1 “(D) **(d)** Commitment [of the community] to environmental stewardship.

2 “(b) Establish a conservation stewardship organization, as a separate
3 nonprofit entity funded through income generated by the development, that is
4 charged with:]

5 “(A) Development of a baseline study that establishes the current level and
6 condition of the local environment. As part of the baseline study, the organ-
7 ization must develop a long-term stewardship plan that targets net creation
8 and rehabilitation of resources, on-site and off-site.]

9 “(B) Ongoing review, election and management of habitat restoration
10 projects that implement the goal of the long-term stewardship plan.]

11 “(C) Education and outreach on environmental stewardship.]

12 “(c) **(15)** **Must** organize and manage volunteers working to conserve lo-
13 cal resources.

14 “(d) **(16)** **Must** monitor performance of energy and water usage and site
15 development standards versus actual practice.

16 “(e) Audit and publish annually a report of the community’s performance
17 result for the preceding year.]

18 **“SECTION 4.** Section 5, chapter 636, Oregon Laws 2009, as amended by
19 section 3, chapter 888, Oregon Laws 2009, and section 9, chapter 15, Oregon
20 Laws 2018, is amended to read:

21 **“Sec. 5.** (1) An application for a [small-scale recreation community]
22 **conservation-offset housing opportunity** under sections 2 to 5,
23 chapter 636, Oregon Laws 2009, may be filed **with the county** only by the
24 owner of a Metolius resort site [and] **jointly with** the owner of the site [on
25 which development of the small-scale recreation community is proposed and
26 must be filed jointly by the owners. The owners shall file a copy of the appli-
27 cation with the Department of Land Conservation and Development at the same
28 time that the owners file the application with the county having land use ju-
29 risdiction over the proposed development site] **of the conservation-offset**
30 **housing opportunity.**

1 “(2) A county shall review an application for a [*small-scale recreation*
2 *community under sections 2 to 5, chapter 636, Oregon Laws 2009,*]
3 **conservation-offset housing opportunity** as a **conditional** use [*permitted*
4 *under section 3 (4)(a), chapter 636, Oregon Laws 2009,*] and as a land division
5 under ORS chapter 92.

6 “(3) In addition to the standards set forth in sections 2 to 5, chapter 636,
7 Oregon Laws 2009, the applicant for a [*small-scale recreation community*]
8 **conservation-offset housing opportunity** must demonstrate to the county
9 that streets, utilities and services adequate to serve the [*small-scale recreation*
10 *community*] **conservation-offset housing opportunity** are available
11 or will be made available prior to occupancy [*of the small-scale recreation*
12 *community*].

13 “[(4) *If more than two applications for a small-scale recreation community*
14 *are filed under sections 2 to 5, chapter 636, Oregon Laws 2009, and a county*
15 *has not yet approved an application, the department shall determine which of*
16 *the applications may proceed, taking into consideration:*]
17 “[(a) *The time at which each application was filed;*]
18 “[(b) *The unemployment rate in the counties, if more than one county is*
19 *involved; and]*

20 “[(c) *The findings set forth in section 1, chapter 636, Oregon Laws 2009.*]
21 “[(5) *When two applications for small-scale recreation communities have*
22 *been approved, additional applications may not be considered.*]
23 “**(4) Before approving any developments within the conservation-**
24 **offset housing opportunity, the county must first adopt a conceptual**
25 **plan for the conservation-offset housing opportunity that designates:**

26 “**(a) Recreation and open space lands; and**
27 “**(b) Lands for commercial uses, either separate or as mixed use.**
28 “**(5) Within 21 days after the adoption of a conceptual plan under**
29 **subsection (4) of this section, the county must submit the plan to the**
30 **Department of Land Conservation and Development.**

1 **“(6) Within 60 days after receiving a submittal under subsection (5)**
2 **of this section, the department shall:**

3 **“(a) Review the submittal for compliance with the provisions of**
4 **sections 2 to 5, chapter 636, Oregon Laws 2009; and**

5 **“(b)(A) If the submittal substantially complies with the provisions**
6 **of sections 2 to 5, chapter 636, Oregon Laws 2009, and no other appli-**
7 **cations have been previously approved by the department, issue an**
8 **order approving the submittal; or**

9 **“(B) Otherwise, issue an order remanding the submittal to the**
10 **county with a specific determination of deficiencies in the submittal**
11 **and with sufficient detail to identify a specific remedy for any defi-**
12 **ciency in a subsequent resubmittal.**

13 **“(7) Judicial review of the department’s order under subsection (6)**
14 **of this section must be:**

15 **“(a) Made as a review of orders other than a contested case under**
16 **ORS 183.484; and**

17 **“(b) Initiated by the county or an owner of the proposed**
18 **conservation-offset housing opportunity that was submitted to the**
19 **department.**

20 **“[(6)] (8) A county may charge a fee to cover the costs of processing an**
21 **application.”.**

22
