



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

6/15/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Curry County Plan Amendment  
DLCD File Number 005-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 29, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: David Pratt, Curry County  
Jon Jinings, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative

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FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

**DEPT OF**

**JUN 09 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Curry County**

Local file number: **CP-0902**

Date of Adoption: **June 2, 2010**

Date Mailed: **6/8/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: **10/07/2009**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The adoption of amendments to the Curry County Comprehensive Plan - Goal 8 (Recreational Needs): new regulations for development of destination resorts, and map of areas that may be eligible for the siting of destination resorts.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **Different Locations in Curry County**

Acres Involved: **3,633**

Specify Density: Previous:

New:

Applicable statewide planning goals:

**1** **2** **3** **4** **5** **6** **7** **8** **9** 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD; ODOT; DEQ; ODFW; Oregon Department of Forestry (ODF); the Cities of Brookings, Gold Beach, and Port Orford; Coos Curry Electric Co-Op.; Oregon Department of Water Resources (ODWR); the State Fire Marshall; DOGAMI; ODWR (Water Resources); ODPR; Oregon Department of Agriculture; 1000 Friends of Oregon; and the Oregon Shores Conservation Coalition.

Local Contact: **David Pratt**

Phone: **(541) 247-3228** Extension:

Address: **P.O. Box 746**

Fax Number: **541-247-4579**

City: **Gold Beach**

Zip: **97444-**

E-mail Address: **pratt@d@co.curry.or.us**

## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. **Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

**NOTICE OF CURRY COUNTY  
BOARD OF COMMISSIONERS DECISION**

**DEPT OF**

**JUN 09 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

**Date: June 8, 2010**

**The Curry County Board of Commissioners APPROVED legislative amendments to the Curry County Zoning Ordinance and the Curry County Comprehensive Plan to allow the siting of Destination Resorts on June 2, 2010.**

**Curry County Zoning Ordinance: Section 4.080 Destination Resorts  
Curry County Comprehensive Plan: Chapter 8.7 Destination Resorts**

**REQUIRED STATUTORY NOTICE**

The Curry County Board of Commissioners decision on this matter is the final review available through the County. The decision may be challenged by filing a notice of intent to appeal with the State Land Use Board of Appeals within 21 days of the Notice, pursuant to ORS 197.830. The State Land Use Board of Appeals address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552, phone (503) 373-1265.

Additional information can be obtained as outlined below:

David J. Pratt, AICP Planning Director  
Curry County Department of Public Services  
P.O. Box 746  
94235 Moore Street, lower level  
Gold Beach, OR 97444  
Ph: (541) 247-3284 email: pratt@co.curry.or.us

A copy of the decision order, application, documents and evidence submitted by the applicant, applicable decision criteria are available for inspection at the Department of Public Services. Copies of these documents are available upon payment of a copy charge of .25 per page.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of Amendments to the )  
Curry County Zoning Ordinance )     **ORDINANCE NO. 10-02**  
to Regulate the Development of )  
Destination Resorts )

The Curry County Board of Commissioners ordains as follows:

**Section I: Findings**

1.     The Board of Curry County Commissioners concurs with the findings of the Oregon Legislative Assembly as found in ORS 197.440. Specifically, the Board 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.
  
2.     In October of 2009, 1000 Friends of Oregon and Oregon Shores Conservation Coalition sponsored local workshops for the general public on destination resorts in Curry County.
  
3.     The Curry County Planning Commission held public hearings on December 3, 2009, and January 7, 2010, to consider proposed amendments to the Curry County Comprehensive Plan, a draft map of lands eligible for the siting of destination resorts (and a proposed change to the zoning ordinance) that would potentially allow destination resorts in Curry County.

4. On January 28, 2010, the Curry County Planning Commission, by a vote of 5-0, recommended that the Board of Curry County Commissioners adopt the following documents found in the staff report of the record in this proceeding: 1) the proposed amendments to the Curry County Comprehensive Plan dated January 29, 2010; 2) the Draft Map of Eligible Land for Destination Resorts dated December 4, 2009; and 3) the draft proposed zoning ordinance for destination resorts dated January 29, 2010.
5. The Board of Curry County Commissioners held hearings on the above-referenced proposed ordinances on March 3, 2010, and April 29, 2010. In addition, it left the record open until May 7, 2010, for submission of new material, and until May 14, 2010, for submittal of rebuttal comments. It considered the recommendations of the Curry County Planning Commission as well as the testimony and evidence submitted at the hearings in this cause.
6. The Zoning ordinance language that is attached hereto and incorporated by reference took into consideration a number of issues raised both before the Curry County Planning Commission and the Board of Curry County Commissioners. Such issues included, but were not limited to the following: A) Statewide Goals 5, 12, 16, 17 and 18; B) storm and surface water management; C) erosion prevention and sediment control, and D) the identification of natural hazard areas and the requirement for geological assessments and studies.

#### **Section II: Amendments**

The Curry County Zoning Ordinance of 1994, (and its subsequent amendments) is further amended by adding: Attachment "A" that is incorporated by reference..

#### **Section III: Severance Clause**

If any section, subsection, sentence, clauses or phrases of this ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section IV: Effective Date**

Consistent with ORS Chapters 197 and 215, this ordinance shall take effect upon its passage.

Dated this 2<sup>nd</sup> day of June, 2010.

**BOARD OF CURRY COUNTY COMMISSIONERS**

*Bill Waddle*

Bill Waddle, Chair

*Georgia Yee Nowlin*

Georgia Yee Nowlin, Vice Chair

*George Rhodes*

George Rhodes, Commissioner

Recording Secretary:

*Nancy Chester*

Approved as to Form:

*M. Gerard Herbage*

M. Gerard Herbage  
Curry County Legal Counsel

First Reading: March 3<sup>rd</sup>, 2010

Second Reading: April 29, 2010

Effective Date: June 2, 2010

(Adoption is pursuant to ORS Chapters 197 and 215).

CURRY COUNTY ZONING ORDINANCE

**DESTINATION RESORTS**

(June 2, 2010)

**Text amendments to the *Curry County Zoning Ordinance* to regulate the development of  
Destination Resorts.**

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**Section 3.041. Uses Permitted Outright.**

11. Destination resorts reviewed and approved pursuant to CCZO Section 4.080 to 4.088.

**Section 3.051. Uses Permitted Outright.**

11. Destination resorts reviewed and approved pursuant to CCZO Section 4.080 to 4.088.

**Section 3.062. Conditional Uses Subject to Administrative Approval by the Director.**

30. A destination resort which is approved consistent with the requirements of **CCZO** Section 4.080 to 4.088 and any statewide planning goal relating to the siting of a destination resort except on high-value farm land. (16a,b)

**Section 3.072. Conditional Uses Subject to Administrative Approval by the Director.**

30. A destination resort which is approved consistent with the requirements of **CCZO** Section 4.080 to 4.088 and any statewide planning goal relating to the siting of a destination resort except on high-value farm land. (16a,b)

**Section 4.080 Destination Resorts**

The purpose of this Section is to establish a process for siting destination resorts in compliance with ORS 197.435 through 197.467, to provide for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of the County, to ensure that resort development will not cause a significant adverse impact on farming, forestry, environmental and natural features, and to ensure that adequate services and utilities are provided to serve the resort.

**4.081 Definitions**

The following definitions apply solely to CCZO Section 4.082 to CCZO Section 4.088 and supersede any definitions under CCZO Section 1.030:



1. Destination Resort: A self-contained development providing visitor oriented accommodations and developed recreational facilities in a setting with high natural amenities.
2. Developed Recreation Facilities: Improvements constructed for the purpose of recreation, including, but not limited to, golf courses, tennis courts, swimming pools, marinas, equestrian facilities and bicycle paths.
3. 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.
4. Map of Eligible Lands: The map adopted as part of the Comprehensive Plan showing lands that are eligible for the siting of a destination resort.
5. 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.
6. Overnight Lodgings: Permanent, separately rentable accommodations that are not available for residential use, including, but not limited to, hotel, motel or lodge rooms, cabins, timeshare units and similar transient lodging facilities. 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 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.
7. Self-Contained Development: 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.
8. Tract: 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.

9. Visitor Oriented Accommodations: Overnight lodging, restaurants, and meeting facilities which are designed to, and provide for, the needs of visitors rather than year-round residents.

#### **4.082 Procedures**

1. An application for a new destination resort or the expansion of an existing destination resort must include the application requirements specified in Section 4.083, a tentative destination resort master plan in accordance with Section 4.084, and evidence showing that the resort will comply with the standards and criteria in Section 4.085.
2. The Planning Commission shall have the authority to review and approve or deny a tentative destination resort master plan.
3. Approval of a tentative destination resort master plan is valid for two years, within which time a final destination resort master plan in accordance with the requirements of Section 4.087 must be prepared and submitted to the Planning Division for review by the Planning Commission. An extension of the two year time period may be granted by the Planning Commission, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented completion of the final plan. Notice of a decision to grant an extension shall be provided in accordance with Section 2.110. No more than two such extensions shall be granted for any one tentative destination resort master plan.
4. Approval of a land division, in accordance with the Curry County Land Division Ordinance, will be required prior to the creation of any residential or other lots. A single subdivision application may be submitted for the entire resort. The resort may be developed in phases, with a separate land division application submitted concurrently for each phase.
5. Except as required to comply with applicable conditions of a tentative destination resort master plan or tentative land division approval, no on-site development shall occur until the final destination resort master plan has been approved.

#### **4.083 Tentative Destination Resort Master Plan Application Requirements**

An application for tentative approval of a destination resort master plan shall contain sufficient information to address all the decision criteria including the following:

1. Completed land use application form and application fee.
2. Ten (10) paper copies and one electronic copy of a tentative resort master plan containing the information required by Section 4.084.

3. One (1), 8½ x 11 or 11 x 17 drawing of the tentative resort master plan for purposes of providing notice. The drawing may be a reduced copy of the tentative resort master plan or one or more separate drawings.
4. A title report based on research going back in time without limitation, indicating all easements and encumbrances of record that affect the property. The tentative resort master plan shall include graphic depictions of the location of all easements and encumbrances that are of record.
5. A statement of the proposed method of providing water, sanitation, and utilities. A water supply study prepared by a professional hydrologist, an Oregon Registered Engineering Geologist or similar professional shall be submitted describing the following:
  - a. An estimate of water demands for the resort at maximum build out, including a breakdown of estimated demand for commercial uses, residential uses, visitor oriented accommodations, recreational uses, and any irrigated common areas;
  - b. The availability of water to meet the estimated demand, including the proposed water source, evidence of the quantity and quality of water from that source, identification of the area that may be impacted if water to serve the resort is taken from that source, and information on whether water rights are needed or have been obtained; and
  - c. A water conservation plan, including an analysis of available measures which are commonly used to reduce water consumption.
  - d. A low impact development plan with a strategy for maintaining natural infiltration rates and protecting the water quality of surface and ground water. The strategy plan shall also include, but not be limited to, pesticides, herbicides, fertilizers, and other pollutants.
6. A preliminary fire safety protection plan that, at a minimum, includes the following:
  - a. Proposed fire prevention measures;
  - b. Preliminary location of fire safe area(s) in which resort visitors and residents can gather in the event of a fire, and proposed measures to maintain such areas;
  - c. A fire evacuation plan; and
  - d. Proposed on-site pre-suppression and suppression measures, which must include a provision for trained personnel capable of operating all fire suppression equipment during designated periods of fire danger. This requirement may be waived if the resort is within a

fire district that provides structural fire protection and the fire district indicates in writing that on-site fire suppression is not needed.

7. A description of all proposed recreation facilities, and whether they will be open to the general public.
8. A statement of the proposed number of overnight lodging units and residences, and description of the proposed type or method of ownership for each.
9. A description of the proposed residential lot sizes.
10. If the resort is proposed to be completed in phases, a description of each phase and the proposed timeframe for completing each phase.
11. Plans for owner's association(s) and the method of ensuring that all facilities and common areas will be maintained in perpetuity.
12. Plans for the management of any individually owned units that will be used as overnight lodging units, including proposed rental contract provisions to assure that any individually owned units will be 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.
13. Evidence that the resort will comply with all standards and criteria in Sections 4.085.
14. If the site is within 10 miles of an urban growth boundary, the county shall require the applicant to submit a traffic impact analysis of the proposed development that includes measures to avoid or mitigate a proportionate share of adverse effects of transportation on state highways and other transportation facilities affected by the proposed development, including transportation facilities in the county and in cities whose urban growth boundaries are within the distance specified in this subsection.
15. If the proposed resort access is from a county road or state highway, a statement from the County Roadmaster or Oregon Department of Transportation (ODOT) on the proposed impacts to the transportation system shall be required. A Traffic Impact Study (TIS) may be required.
16. An erosion prevention and sediment control plan, in accordance with CCZO Section 3.300 as well as a preliminary storm and surface water management plan in accordance with CCZO Section 3.400.
17. A strategy for preventing and controlling the spread or introduction of invasive plants listed by the state and county as noxious weeds.

18. If the site is within 10 miles of an urban growth boundary, the county shall require the applicant to submit an economic impact analysis of the proposed development that includes analysis of the projected impacts within the county and within cities whose urban growth boundaries are within the distance specified in this subsection.
19. An estimate of the number of persons the resort will employ, the number of employee housing units that will be provided on-site, and a description of any proposed transportation system that will be provided for employees. If the resort will be developed in phases, the employee housing/transportation plan should reflect any change in employment numbers that will occur as each phase is developed.
20. Geologic hazard assessment prepared by an Oregon Certified Engineering Geologist in accordance with CCZO Section 3.250 if the proposed destination resort is within the Natural Hazard Overlay Zone.
21. Other information, as reasonably determined necessary by the Planning Director to establish compliance with applicable criteria.

#### **4.084 Tentative Destination Resort Master Plan Contents**

An application for tentative approval of a destination resort master plan must include ten (10) paper copies and one (1) electronic copy of a tentative plan that includes the information listed below. The tentative plan must be clearly and legibly drawn on white paper to a standard engineer's scale (i.e., 1" = 100', 1" = 400' etc.). The scale used shall be large enough so that all required information is clearly legible.

The tentative plan must contain the following:

1. The words "Tentative Destination Resort Master Plan", the township, range, section, and tax lot number(s) of the property, the date, north point, and scale of the plan, and name and address of the person who prepared the plan.
2. The approximate areas and number of acres to be developed for commercial uses, visitor oriented accommodations, residential uses, recreational uses, common areas and open space, and any portions of the tract that will not be developed or used as part of the resort.
3. The location, inventory, and strategy for the protection of any designated Goal 5 resources on the tract.
4. The general location of proposed pedestrian, equestrian and bicycle paths and trails.
5. The location, width and name of all existing roads on or abutting the property, and whether the roads are public or private; and the approximate location, width and grade of any proposed new road, and whether it will be public or private.

6. The location, width and purpose of all existing and proposed easements. The reference number of all recorded easements shall be noted. All reservations or restrictions relating to the easements shall be indicated.
7. The location of approved, or approximate location of proposed, areas for subsurface sewage disposal, any community sewer system, sewer lines and easements.
8. The location of all existing utilities on or abutting the property, and the approximate location of proposed new utilities.
9. Topographic information for areas proposed for development with slopes exceeding 15 percent. Contour intervals of ten feet or smaller may be required.
10. The location of all rivers, streams, wetlands, drainage ways, and ditches, floodways and flood plains shown on the Federal Insurance Rate Maps that are within the site. The approximate location of any other areas which are subject to inundation or storm water overflow should also be shown.
11. The approximate location of proposed fire safety protection system components, including fire safe area(s), fire evacuation routes, and fire hydrants or other water supply available for fighting fire.
12. If the resort is proposed to be developed in phases, the approximate boundary of each phase shall be clearly delineated and labeled.
13. The approximate location of stormwater management facilities.

#### **4.085 Standards and Criteria for Approval of Tentative Master Plan**

In order to be approved, the tentative master plan for a destination resort must comply with the following standards and criteria:

##### 1. LARGE RESORT STANDARDS

- a. The resort will 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 in size.
- b. The resort site is shown as being eligible for the siting of a destination resort on the *Curry County Map of Eligible Lands for Destination Resorts*.
- c. At least 50 percent of the site will be dedicated to permanent open space.
- d. At least \$7 million (spending requirements are 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) will 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. At least one-third of this amount must be spent on developed recreational facilities.

- e. Visitor oriented accommodations including meeting rooms, restaurants with seating for at least 100 persons and a minimum of 150 overnight lodging units shall be provided. The overnight lodging units may be phased in as follows:
  - 1. A total of 150 units of overnight lodging must be provided.
  - 2. 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.
  - 3. 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.
  - 4. The number of units approved for residential sale may not be more than one unit for each ten units of permanent overnight lodging provided under this paragraph. Individually-owned units shall be considered as overnight lodging 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. Individually-owned units may include single family dwellings, condominiums, townhouses, time-share projects and similar arrangements. Housing for resort management and staff that remains under resort ownership shall not be counted either as overnight lodging or as units for residential sale.
  - 5. The development approval must provide for the construction of other required overnight lodging units within five years of the initial lot sales.
- f. Commercial and entertainment uses shall be limited to types, numbers, location and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted. Commercial uses may include specialty shops such as delis, clothing stores, bookstores and gift shops; barber shops or beauty salons; automobile service stations limited to fuel and tire sales; art galleries; convenience stores; real estate office, limited to the sale of lots or units within the resort; and other similar uses. A commercial use is necessary to serve the needs of visitors if:
  - 1. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to the resort; and

2. The use is oriented to the resort and is located away from or is screened from highways and other major roads.
- e. Large resorts must also comply with Subsection 3 of this Section.

## 2. SMALL RESORT

- a. The resort will be located on a site of 20 acres or more.
- b. The resort will not be located any closer to a high value crop area than one-half mile for each 25 units of overnight lodging or fraction thereof.
- c. The site must not be defined as agricultural or forestry land under Statewide Planning Goals 3 or 4.
- d. The resort may be sited in a rural community, rural exception area, or other site that is the subject of an approved exception to Statewide Planning goals 3 or 4, 11, and 14.
- e. At least \$2 million (spending requirements are 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) will 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. At least one-third of this amount must be spent on developed recreational facilities.
- f. At least 25 units, but not more than 75 units, of overnight lodging must be provided.
- g. Restaurant and meeting room with at least one seat for each unit of overnight lodging must be provided.
- h. Residential uses must be limited to those necessary for the staff and management of the resort.
- i. 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 setting. Such recreational resources include, but are not limited to: coastal beach or shoreline, a fishing stream or river, seasonal big or small game hunting, horse "dude" ranch, interpretive nature and natural habitat facilities.
- j. The resort must be located and constructed so that it is not designed to attract highway traffic. Resorts may 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. On-site identification and directional signs.

k. Small resorts must also comply with Subsection 3 of this Section

### 3. ADDITIONAL STANDARDS FOR BOTH LARGE AND SMALL RESORTS

- a. 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 natural features, including placement of structures, may be allowed provided the overall values of the natural feature are retained.
- 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 farming or forestry operations in the area and on state parks and national wildlife refuges. At a minimum, measures to accomplish this shall include the 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, and setbacks of structures and other improvements from adjacent land uses. The applicant shall propose buffers and setbacks as part of the tentative resort plan and the Planning Commission shall determine whether the proposed measures are adequate to avoid or minimize impacts to surrounding lands. Adverse effects on surrounding lands are to be avoided first and minimized if avoidance is not possible. The Planning Commission may set forth additional conditions to avoid or minimize impacts to surrounding lands.
- c. Any designated Goal 5 resource on the tract where the resort will be sited will be preserved through conservation easements as set forth in ORS 271.715 to 271.795. A conservation easement under this section shall be sufficient to protect the resource values of the Goal 5 site and shall be recorded with the property records of the tract on which the destination resort is sited.
- d. Adequate access to serve the resort exists or will be provided by the developer. For fire safety purposes, more than one road for ingress and egress shall be provided unless the resort includes a fire safety area that is large enough so that all visitors and residents of the resort can congregate in vehicles and survive a passing wildfire. If a safety area is provided, it shall be kept free of combustible material and vegetation. Information indicating the location of the safety area shall be provided to all resort visitors and residents, and signs shall be posted around the safety area and throughout the resort providing directions to the safety area.
- e. The resort developer shall demonstrate, consistent with the applicable requirements of the Transportation Planning Rule of OAR 660-012-0060, as amended, that the resort will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:

1. Changing the level of service of an existing or planned transportation facility;
  2. Changing standards implementing the street classification system;
  3. Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the level of service of a transportation facility; or
  4. Reducing the level of service of the facility below the minimum acceptable level identified in the Curry County Transportation System Plan.
- f. Any component of the resort plan, any subsequent site plan, or any development, which significantly affects a transportation facility shall assure that the proposed uses or development are consistent with the identified function, capacity, and performance standards of the transportation facility by either:
1. Limiting allowed uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;
  2. Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or
  3. Providing transportation facilities adequate to support the proposed uses.
- g. Any portion of the tract on which the resort will be sited that is in an area of special flood hazard, has slopes exceeding 25 percent, or is subject to other natural hazard shall not be altered or developed except for the following uses:
1. Outdoor recreation facilities including golf courses, bike paths, trails, or similar facilities;
  2. Minor drainage improvements which do not significantly impact important natural features or the stability of the site; and
  3. Roads, bridges and utilities where there are no feasible alternative locations on the site.
  4. Development approved under the provisions of CCZO Section 3.250 – Natural Hazard Overlay Zone (NH).

Any alteration or structure allowed under this subsection shall be adequately protected from hazard, or shall be of minimal value and be designed to minimize adverse environmental effects.

- h. Any portions of a proposed destination resort located in areas that are subject to acknowledged comprehensive plan and land use regulation requirements implementing the coastal goals (i.e. Statewide Planning Goals 16 (Estuarine Resources); 17 (Coastal Shorelands); and 18 (Beaches and Dunes)) shall be planned and constructed in a manner that is consistent with the applicable provisions of the acknowledged comprehensive plan, and land use regulations implementing the Coastal Goals. The county shall require appropriate conservation easements, conditions of approval and a site configuration to ensure compliance with specific substantive standards of the county's comprehensive plan and land use regulations that implement the coastal goals. Where appropriate, the county shall require areas subject to coastal goal-related use and activity limitations to be retained as open space, for the dual purpose of meeting Goal 8 open space requirements and protecting coastal uses and resources.
- i. Any portions of a proposed destination resort located in areas that are subject to acknowledged comprehensive plan and land use regulation requirements implementing Goal 5 shall be planned and constructed in a manner that is consistent with the applicable provisions of the acknowledged comprehensive plan and land use regulations implementing this goal. The county shall require appropriate conservation easements, conditions of approval and a site configuration to ensure compliance with specific substantive standards of the county's comprehensive plan and land use regulations that implement Goal 5.

#### **4.086 Conditions of Approval**

Conditions shall be placed on the approval of a tentative resort master plan to ensure that the destination resort complies with the standards and criteria in this Section. The recommendations and comments of other public agencies will be considered and may also provide the basis for conditions of approval. Conditions shall include, but are not limited to, the following:

1. Developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or 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 shall be guaranteed through surety bonding.
2. The on-site sewage system(s) to serve the resort shall be approved by the Department of Environmental Quality (DEQ).
3. The on-site water system that will serve the resort shall be approved by the Water Resources Department and the Drinking Water Division of the State Department of Human Services unless connected to an existing public water system.

4. For Large Resorts, the resort shall be required to provide an annual accounting to document compliance with the overnight lodging standards. 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 there are not more than 1 residential unit for each 10 units of permanent overnight lodging; and
  - 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 defined in Section 4.081(6).
5. The developer shall provide a mechanism to ensure that individually-owned units that will be counted toward the overnight lodging total remain available for rent for at least 45 weeks per calendar year through a central reservation and check-in service. The mechanism shall include all of the following:
  - a. Designation on the final site plan(s) and land division plat(s) which individually-owned units are to be considered to be overnight lodging;
  - b. Deed restrictions limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 45 weeks per calendar year through a central reservation and check-in service;
  - c. Inclusion in the Covenants, Conditions and Restrictions (CC&R's) an irrevocable provision enforceable by the County limiting use of such individually-owned units to overnight lodging available for rental to the general public for at least 45 weeks per calendar year through a central reservation and check-in service; and
  - d. Inclusion of language in any rental contract between the owner of the unit and the central reservation and check-in service requiring that the individually-owned unit be made available for rental to the general public for at least 45 weeks per calendar year.
6. Provisions must be established to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space. The open space may be conveyed by leasing or conveying title to a corporation, homeowner's association or other legal entity. The terms of the lease or other instrument of conveyance shall include provisions that guarantee:
  - a. The continuation of use of the land as open space;

- b. The continuity of property maintenance, including the necessary financial arrangements for such maintenance; and
  - c. That the legal entity formed for the joint ownership and maintenance of the open space will not be dissolved, nor will it dispose of any open space by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the open space.
7. Any portion of a tract that is not included as part of the resort shall not be used or operated in conjunction with the resort, and shall be subject to all requirements of the zone where the property is located.
8. Any necessary off-site road improvements shall be completed prior to approval of the final master plan unless a bonding agreement has been executed. Where the County is not empowered to inspect and approve public improvements (e.g., improvements to a state highway), written certification of the acceptance of the improvement by the appropriate agency will be required.
9. Assurances. The Planning Commission may require financial or other assurances for any development in the proposed destination resort site area to ensure proper installation of required road, septic/sewer, electric, and water utilities, drainage, flood control, and other improvements.

#### **4.087 Final Destination Resort Master Plans**

1. An application for approval of a final destination resort master plan shall be submitted following approval of a tentative master plan. The application shall include the following:
- a. Completed application form and application fee.
  - b. Ten (10) paper copies and one electronic copy of the final master plan drawings, showing the final, rather than approximate, location of all items required for submittal of the tentative master plan specified in Section 4.084.
  - c. Documentation and evidence showing compliance with all general and specific conditions of approval of the tentative master plan.
  - d. A statement of the total number of overnight lodging units and residences the resort will have upon completion, and the number of each type of unit in each phase if the resort will be developed in phases.
  - e. A final fire safety protection plan as approved by the State Fire Marshall, or evidence of inclusion within a rural fire protection district.

- f. Evidence that adequate water to serve the resort is lawfully available and any necessary water rights or service contracts have been obtained.
- g. Final plans for the management of overnight lodging units, and sample covenants, conditions and restrictions, rental contract provisions, and deed restrictions that will be used to ensure that individually-owned units will be available for rental to the general public for at least 45 weeks per calendar year.
- h. Final estimate of the amount that will be spent on improvements for on-site developed recreational facilities and visitor oriented accommodations, exclusive of costs for land, sewer and water facilities and road. If the resort will be developed in phases, the estimated amount that will be spent for each phase shall be indicated.
- i. Evidence that any required conservation easements, restrictive covenants or other required deed declarations have been recorded.
- j. Final provisions to guarantee ongoing property tax responsibility and maintenance of lands reserved as open space.
- k. Evidence that any required off-site road improvements have been completed.

2. The final master plan will be reviewed by the Planning Commission for conformance with the approved tentative plan and compliance with all conditions of approval. The final master plan will be approved if it substantially conforms to the tentative master plan approval. Notice of a decision to approve a final master plan shall be provided to all parties of record of the tentative master plan application.

If the final master plan does not substantially conform to the tentative master plan, the applicant will be required to submit an amended tentative master plan in accordance with Section 4.088. "Substantially conform" means that any change in the type, scale, location, access, or other aspect of the proposed development is minor and does not change a finding of fact upon which the tentative master plan approval was based. Once a final master plan is approved, minor alterations or modifications may be approved by the Planning Director if they substantially conform to the approved final plan.

- 3. Conditions may be imposed on the approval of a final master plan to ensure that the resort operates in compliance with all requirements of state statutes and this ordinance. Conditions of approval of the final master plan may include conditions that were imposed as part of the approval of the tentative plan.
- 4. Applications for land divisions submitted after approval of the final master plan shall conform to the approved final master plan and any conditions thereon.

5. The final master plan approval shall be valid for two years from the date of the final decision, and will expire if development has not been initiated. An extension of the two year time period may be granted by the Planning Commission, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period stating the reasons that have prevented the developer from beginning development within the approval period. Notice of a decision to grant an extension shall be provided in accordance with CCZO Section 2.110. After two years, or at the end of any extension that has been granted, the final master plan approval will be void if development has not been initiated.
6. Filing or Recording. Upon final approval and after all conditions have been met, the developer shall record the final master plan in the county deed records. If parcels are to be sold, the developer shall process and record a subdivision plat as provided in "Ordinance Establishing Regulations for Divisions of Land in Curry County" and ORS Chapter 92.

#### **4.088 Modification of Approved Tentative or Final Master Plan**

An approved tentative destination resort master plan or final master plan may be amended through the same procedure as in the initial approval. Review of an application for an amendment to a tentative or final master plan shall be limited to the specific items or features of the plan that are being revised.