


REVIEWED

LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code
Title 18, Deschutes County Zoning, Title 19, Bend
Urban Area Zoning Ordinance, and Title 23, the
Deschutes County Comprehensive Plan, to ensure
equal treatment of religious institutions per the
Religious Land Use and Institutionalized Persons Act
(RLUIPA) of 2000. *

ORDINANCE NO. 2020-001

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-19-000512-PA/513-TA) to the Deschutes County Comprehensive Plan, and to the Deschutes County Code (DCC) Title 18, 19, and 23 to ensure equal treatment of religious institutions and assemblies per the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA); and

WHEREAS, the Deschutes County Planning Commission considered this matter after a duly noticed public hearing on August 8, 2019, with continuations to August 22, 2019, and September 12, 2019 and reviewed the proposed changes on October 10, 2019, and forwarded to the Deschutes County Board of County Commissioners (“Board”), with no formal recommendation; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on November 13, 2019, and concluded that the public will benefit from the proposed changes to the Deschutes County Comprehensive Plan, and Deschutes County Code (“DCC”) Titles 18, 19, and 23;

NOW, THEREFORE,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 18.04. Title, Purpose, and Definitions, is amended to read as described in Exhibit “A”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDMENT. DCC 18.08. Basic Provisions, is amended to read as described in Exhibit “B”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 3. AMENDMENT. DCC 18.16. Exclusive Farm Use Zone, is amended to read as described in Exhibit “C”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 4. AMENDMENT. DCC 18.32. Multiple Use Agricultural Zone, is amended to read as described in Exhibit “D”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 5. AMENDMENT. DCC 18.60. Rural Residential Zone, is amended to read as described in Exhibit “E”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 6. AMENDMENT. DCC 18.65. Rural Service Center Zone, is amended to read as described in Exhibit “F”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 7. AMENDMENT. DCC 18.66. Terrebonne Rural Community Zoning Districts, is amended to read as described in Exhibit “G”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 8. AMENDMENT. DCC 18.67. Tumalo Rural Community Zoning Districts, is amended to read as described in Exhibit “H”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 9. AMENDMENT. DCC 18.74. Rural Commercial Zone, is amended to read as described in Exhibit “I”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 10. AMENDMENT. DCC 18.80. Airport Safety Combining Zone, is amended to read as described in Exhibit “J”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 11. AMENDMENT. DCC 18.88. Wildlife Area Combining Zone, is amended to read as described in Exhibit “K”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 12. AMENDMENT. DCC 18.108. Urban Unincorporated Community Zone - Sunriver, is amended to read as described in Exhibit “L”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 13. AMENDMENT. DCC 18.110. Resort Community Zone - Sunriver, is amended to read as described in Exhibit “M”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 14. AMENDMENT. DCC 18.116. Supplementary Provisions, is amended to read as described in Exhibit “N”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 15. AMENDMENT. DCC 18.124. Site Plan Review, is amended to read as described in Exhibit “O”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 16. AMENDMENT. DCC 18.128. Conditional Use is amended to read as described in Exhibit “P”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 17. AMENDMENT. DCC 19.04. Title, Compliance, Applicability, and Definitions, is amended to read as described in Exhibit “Q”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 18. AMENDMENT. DCC 19.08. Establishment of Zones and Zoning Maps, is amended to read as described in Exhibit “R”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 19. AMENDMENT. DCC 19.12. Urban Area Reserve Zone, is amended to read as described in Exhibit “S”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 20. AMENDMENT. DCC 19.20. Suburban Low Density Residential Zone, is amended to read as described in Exhibit “T”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 21. AMENDMENT. DCC 19.22. Westside Transect Zone, is amended to read as described in Exhibit “U”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 22. AMENDMENT. DCC 19.28. Urban Standard Residential Zone, is amended to read as described in Exhibit “V”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 23. AMENDMENT. DCC 19.80. Off-Street Parking and Loading, is amended to read as described in Exhibit “W”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 24. AMENDMENT. DCC 19.88. Provisions Applying to Special Use Standards, is amended to read as described in Exhibit “X”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 25. AMENDMENT. DCC 19.92. Interpretations and Exceptions, is amended to read as described in Exhibit “Y”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 26. AMENDMENT. DCC Title 23.01.010, Introduction, is amended to read as described in Exhibit “Z”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 27. AMENDMENT. Deschutes County Comprehensive Plan Chapter 2, Resource Management, is amended to read as described in Exhibit “AA”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 28. AMENDMENT. Deschutes County Comprehensive Plan Chapter 3, Rural Growth Management, is amended to read as described in Exhibit “BB”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.


Section 29. AMENDMENT. Deschutes County Comprehensive Plan Chapter 5, Supplemental Sections, is amended to read as described in Exhibit "CC", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike~~through.

Section 30. AMENDMENT. Deschutes County Comprehensive Plan Chapter 5.12, Supplementary Section – Legislative History, is amended to read as described in Exhibit "DD", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike~~through.

Section 31. FINDINGS. The Board adopts as its findings in support of this decision, Exhibit "EE", attached and incorporated by reference herein.


Dated this 22 of January 2020

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


PATTI ADAIR, Chair


ANTHONY DeBONE, Vice Chair


PHILIP G. HENDERSON, Commissioner

ATTEST: 
Recording Secretary

Date of 1st Reading: 8 day of January 2020.

Date of 2nd Reading: 22 day of January 2020.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Patti Adair	X	—	—	—
Anthony DeBone	X	—	—	—
Philip G. Henderson	X	—	—	—

Effective date: 21 day of April, 2020.

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.030. Definitions.

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030.

~~"Church" means an institution that has nonprofit status as a church established with the Internal Revenue Service.~~

"Religious Institution or Assembly " means, so long as having public charity status as a religious assembly or institution established with the Internal Revenue Service, either (consistent with ORS 215.441(1)) a church, synagogue, temple, mosque, chapel, meeting house, or other nonresidential place of worship, or (consistent with 42 USCA § 2000cc-5(7)(B)) the use, building, or conversion of real property for the purpose of religious exercise.

(Ord. ~~2020-001~~§1, 2020; 2018-006 §4, 2018; Ord. 2017-015§1, 2017; Ord. 2016-026§1, 2016; Ord. 2016-015§1, 2016; Ord. 2016-006 §1, 2016; Ord. 2015-004 §1, 2015; Ord. 2014-009 §1, 2014; Ord. 2013-008 §1, 2013; Ord. 2012-007 §1, 2012; Ord. 2012-004 §1, 2012; Ord. 2011-009 §1, 2011; Ord. 2010-022 §1, 2010; Ord. 2010-018 3, 2010, Ord. 2008-007 §1, 2008; Ord. 2008-015 §1, 2008; Ord. 2007-005 §1, 2007; Ord. 2007- 020 §1, 2007; Ord. 2007-019 §1, 2007; Ord. 2006-008 §1, 2006; Ord. 2005-041 §1, 2005; Ord. Chapter 18.04 35 (04/2015) 2004-024 §1, 2004; Ord. 2004-001 §1, 2004; Ord. 2003-028 §1, 2003; Ord. 2001-048 §1, 2001; Ord. 2001-044 §2, 2001; Ord. 2001-037 §1, 2001; Ord. 2001-033 §2, 2001; Ord. 97-078 §5, 1997; Ord. 97-017 §1, 1997; Ord. 97-003 §1, 1997; Ord. 96-082 §1, 1996; Ord. 96-003 §2, 1996; Ord. 95-077 §2, 1995; Ord. 95-075 §1, 1975; Ord. 95-007 §1, 1995; Ord. 95-001 §1, 1995; Ord. 94-053 §1, 1994; Ord. 94-041 §§2 and 3, 1994; Ord. 94-038 §3, 1994; Ord. 94-008 §§1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§1, 2, and 3, 1994; Ord. 93-043 §§1, 1A and 1B, 1993; Ord. 93- 038 §1, 1993; Ord. 93-005 §§1 and 2, 1993; Ord. 93-002 §§1, 2 and 3, 1993; Ord. 92-066 §1, 1992; Ord. 92-065 §§1 and 2, 1992; Ord. 92-034 §1, 1992; Ord. 92-025 §1, 1992; Ord. 92-004 1 and 2, 1992; Ord. 91-038 §§3 and 4, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §1, 1991; Ord. 91-002 §11, 1991; Ord. 90-014 §2, 1990; Ord. 89-009 §2, 1989; Ord. 89-004 §1, 1989; Ord. 88- 050 §3, 1988; Ord. 88-030 §3, 1988; Ord. 88-009 §1, 1988; Ord. 87-015 §1, 1987; Ord. 86-056 2, 1986; Ord. 86-054 §1, 1986; Ord. 86-032 §1, 1986; Ord. 86-018 §1, 1986; Ord. 85-002 §2, 1985; Ord. 84-023 §1, 1984; Ord. 83-037 §2, 1983; Ord. 83-033 §1, 1983; Ord. 82-013 §1, 1982)

Chapter 18.08. BASIC PROVISIONS

18.08.010. Compliance.

18.08.020. Existing Agreements and Zoning Permits.

18.08.030. Terminology and Construction.

18.08.040. Religious Land Use and Institutionalized Persons Act

18.08.040. Religious Land Use and Institutionalized Persons Act

Compliance with the Religious Land Use and Institutionalized Persons Act supersedes all other aspects of DCC Title 18.

(Ord. 2020-001§2, 2020)

Chapter 18.16. EXCLUSIVE FARM USE ZONES

18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC 18.16.050.
- B. A relative farm assistance dwelling, subject to DCC 18.16.050.
- C. ~~Churches~~ Religious institutions or assemblies and cemeteries in conjunction with ~~churches~~ religious institutions or assemblies consistent with ORS 215.441 and OAR 660-033-0130(2) on non-high value farmland.
- D. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use, subject to Oregon Administrative Rules 660-033-0130.
- E. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:
 - 1. DCC 18.16.038(A); or
 - 2. DCC 18.16.038(E) if the utility facility is an associated transmission line, as defined in ORS 469.300.
- F. Winery, as described in ORS 215.452.
- G. Farm stands, subject to DCC 18.16.038.
- H. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may be reasonably necessary.
- I. A facility for the processing of farm crops, or for the production of biofuel as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038.
 - 1. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use .
 - 2. A processing facility or establishment must comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.
 - 3. The County shall not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.
- J. Agri-tourism and other commercial events and activities subject to DCC 18.16.042.
- K. Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, when:
 - 1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
 - 2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
- L. Marijuana processing, subject to the applicable provisions of DCC 18.16.025(I) and 18.116.330.

(Ord. 2020-001§3, 2020; Ord. 2016-015 §2, 2016; Ord. 2014-010 §1, 2014; Ord. 2012-007 §2, 2012; Ord. 2012-004 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004)

Chapter 18.32. MULTIPLE USE AGRICULTURAL ZONE - MUA

18.32.030. Conditional Uses Permitted.

The following uses may be allowed subject to DCC 18.128:

- ...
- W. ~~Churches~~ Religious institutions or assemblies, subject to DCC 18.124 and 18.128.080.
 - X. Private or public schools, including all buildings essential to the operation of such a school.
 - Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
 - Z. Cemetery, mausoleum or crematorium.
 - AA. Commercial horse stables.
 - BB. Horse events, including associated structures, not allowed as a permitted use in this zone.
 - CC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
 - DD. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(7)(g) that:
 - 1. Is on property adjacent to an existing manufactured home/recreational vehicle park;
 - 2. Is adjacent to the City of Bend Urban Growth Boundary; and
 - 3. Has no more than 10 dwelling units.
 - EE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
 - FF. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - GG. Guest lodge.
 - HH. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
 - II. Marijuana processing, subject to the provisions of DCC 18.116.330.
 - JJ. Marijuana production subject to the provisions of DCC 18.116.330.

(Ord. 2020-001 §4, 2020; Ord. 2016-015 §3, 2016; Ord. 2015-002 §1, 2015; Ord. 2009-018 § 1, 2009; Ord. 2004-002 §4, 2004; Ord. 2001-039 §2, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 97-029 §2, 1997; Ord. 97-017 §2, 1997; Ord. 96-038 §1, 1996; Ord. 94-053 §2, 1994; Ord. 94-008 §11, 1994; Ord. 93-043 §§4A and B, 1993; Ord. 92-055 §2, 1992; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 90-014 §§27 and 35, 1990; Ord. 91-005 §§19 and 20, 1991; Ord. 91-002 §7, 1991; Ord. 86-018 §7, 1986; Ord. 83-033 §2, 1983; Ord. 80-206 §3, 1980)

Chapter 18.60. RURAL RESIDENTIAL ZONE - RR-10

18.60.030. Conditional Uses Permitted.

The following uses may be allowed subject to DCC 18.128:

...

- O. ~~Church~~ Religious institutions or assemblies.
- P. Public Uses.
- Q. Semipublic Uses.
- R. Commercial horse stables.
- S. Private or public school, including all buildings essential to the operation of such a school.
- T. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996 as a manufactured home park or recreational vehicle park , including expansion, conversion and combination of such uses on the same parcel, as configured on June 12, 1996.
- U. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.60.030 (T) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12, 1996.
- V. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- W. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2020-001§5, 2020; Ord. 2009-018 § 2, 2009; Ord. 2004-002 §8, 2004; Ord. 2001-039 §5, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 97-017 §3, 1997; Ord. 96-038 §2, 1996; Ord. 96-021 §1, 1996; Ord. 94-008 §13, 1994; Ord. 93-043 §§8A and 8B, 1993; Ord. 92-004 §10, 1992; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §32, 1991; Ord. 90-014 §22, 1990; Ord. 86-018 §13, 1986; Ord. 83-033 §5, 1983)

Chapter 18.65. RURAL SERVICE CENTER - UNINCORPORATED COMMUNITY ZONE

18.65.010. Purpose.

18.65.020. Commercial/Mixed Use District (Brothers, Hampton, Millican, Whistlestop and Wildhunt).

18.65.021. Commercial/Mixed Use District (Alfalfa).

18.65.022. Residential District (Alfalfa).

18.65.023. Open Space District (Brothers).

18.65.030. Standards in All Districts.

18.65.020. RSC – Commercial/Mixed Use District (Brothers, Hampton, Millican, Whistlestop and Wildhunt).

...

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted, subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, and DCC 18.124, Site Plan Review, of this title:

1. Retail store, business office and/or commercial establishment in a building or buildings each not exceeding 4,000 square feet of floor space. The aggregate area for any one type of use that takes place in multiple buildings may not exceed 4,000 square feet.
2. Residential use in conjunction with a permitted commercial use.
3. Park or playground.
4. Community building.
5. Public or semipublic building or use.
6. Highway maintenance facility.
7. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
8. Religious institutions or assemblies.

C. Conditional Uses Permitted. The following uses and their accessory uses are permitted subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use, of this title:

1. Multi-family dwelling with three or more units.
2. ~~Church.~~
3. ~~2. School.~~
4. ~~3. Cemetery.~~
5. ~~4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.~~
6. ~~5. Medical clinic or veterinary clinic.~~
7. ~~6. Community Center.~~
8. ~~7. Manufactured home park.~~
9. ~~8. Recreational vehicle or trailer park.~~
10. ~~9. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A).~~
11. Marijuana retailing, subject to the provisions of DCC 18.116.330.

...

(Ord. 2020-001 §6, 2020; Ord. 2018-006 §8, 2018; Ord. 2016-015 §4, 2016; Ord. 2015-004 §2, 2015; Ord. 2004-002 §11, 2004; Ord. 2002-028 §1, 2002; Ord. 2002-002 §2, 2002)

18.65.021 Alfalfa RSC - Commercial/Mixed Use District.

In Alfalfa, the following uses and their accessory uses are permitted:

...

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted, subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions and DCC 18.124, Site Plan Review, of this title:

- 1. Retail store, business office and/or commercial establishment in a building or buildings each not exceeding 4,000 square feet of floor space. The aggregate area for any one type of use that takes place in multiple buildings may not exceed 4,000 square feet.
- 2. Residential use in conjunction with a permitted commercial use.
- 3. Park or playground.
- 4. Community building.
- 5. Public or semipublic building or use.
- 6. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
- 7. Religious institutions or assemblies.

C. Conditional Uses Permitted. The following uses and their accessory uses are permitted subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use, of this title:

- ~~1. Church.~~
- 2. School.
- 3. Cemetery.
- 4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- 5. Medical clinic or veterinary clinic.
- 6. Community Center.
- 7. Recreational vehicle or trailer park.
- 8. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A).
- 9. Marijuana retailing, subject to the provisions of DCC 18.116.330.

...

(Ord. 2020-001 §6, 2020; Ord. 2018-006 §8, 2018; Ord. 2002-002 §2, 2002)

18.65.022. Alfalfa RSC - Residential District

...

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted, subject to the applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, and DCC 18.124 Site Plan Review, of this title:

- 1. Park or playground.
- 2. Community building.
- 3. Utility facility.
- ~~3.4. Religious institutions or assemblies.~~

C. Conditional Uses Permitted. The following uses and their accessory uses are permitted, subject to the applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use, of this title:

- 1. Schools.
- 2. Medical clinic or veterinary clinic.
- 3. Daycare facility.
- ~~4. Church.~~
- ~~5.4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.~~

6.5. Bed and breakfast inn.

7.6. Public use.

8.7. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

...
| (Ord. 2020-001 §6, 2020; Ord. 2004-002 §12, 2004; Ord. 2002-028 §1, 2002; Ord. 2002-002 §2, 2002)

Chapter 18.66. TERREBONNE RURAL COMMUNITY ZONING DISTRICTS

18.66.020. Residential (TeR) District.

18.66.030. Residential-5 (TeR5) Acre Minimum District.

18.66.040. Commercial (TeC) District.

18.66.050. Commercial-Rural (TeCR) District.

18.66.020. Residential (TeR) District.

B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:

1. Manufactured home park.
2. Multi-family dwelling complex.
3. Retirement center or nursing home.
4. Cluster development.
5. ~~Church~~Religious institutions or assemblies.
6. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
7. Child care center.
8. Public or private school.
9. Park.
10. Public or semi-public building.
11. Utility facility.
12. Water supply or treatment facility.
13. Veterinary clinic.
14. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
15. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2020-001§7, 2020; Ord. 2004-002 §13, 2004; Ord. 97-063 §3, 1997; Ord. 97-003 §2, 1997)

18.66.030. Residential-5 Acre Minimum (TeR5) District.

B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124 and 18.128:

1. Manufactured home park.
2. Multi-family dwelling complex.
3. Retirement center or nursing home.
4. ~~Church~~Religious institutions or assemblies.
5. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
6. Public or private school.
7. Child care center.
8. Park.
9. Public or semi-public building.
10. Utility facility.
11. Water supply or treatment facility.
12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
13. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2020-001 §7, 2020; Ord. 2004-002 § 14, 2004; Ord. 97-063 § 3, 1997; Ord. 97-003 § 2, 1997)

18.66.040. Commercial (TeC) District.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:

1. Motel, with a maximum of 35 units, only if served by a community sewer system as defined in OAR 660-22-010(2).
2. Recreational vehicle park.
3. ~~Church~~Religious institutions or assemblies.
4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
5. Public or private school.
6. Child care center.
7. Park.
8. Public or semi-public building.
9. Medical center in a building or buildings not exceeding 4,000 square feet of floor space.
10. Utility facility.
11. Water supply or treatment facility.
12. Vehicle and trailer sales, service, repair or rental in a building or buildings not exceeding 4,000 square feet of floor space.
13. Uses listed below carried on in a building or buildings not exceeding 4,000 square feet of floor space with no exterior displays or storage of industrial equipment, industrial vehicles or industrial products:
 - a. Manufacturing and production.
 - b. Wholesale sales.
 - c. Mini-storage.
14. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
15. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
16. Marijuana processing, subject to the provisions of DCC 18.116.330.
17. Marijuana retailing, subject to the provisions of DCC 18.116.330.

(Ord. 2020-001 §7, 2020; Ord. 2016-015 §5, 2016; Ord. 2015-004 §3, 2015; Ord. 2004-002 §15, 2004; Ord. 97-063 §3, 1997; Ord. 97-003 §2, 1997)

18.66.050. Commercial-Rural (TeCR) District.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:

1. ~~Church~~Religious institutions or assemblies.
2. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
3. Park.
4. Public or semi-public building.
5. Utility facility.
6. Water supply or treatment facility.
7. Vehicle and trailer sales, service, repair and rental in a building or buildings not exceeding 4,000 square feet of floor area.
8. Uses listed below carried on in a building or buildings not exceeding 10,000 square feet of floor space to be occupied by any combination of the following uses:

- a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Mini-storage.
 - d. Truck terminal.
 - e. Farm or contractor equipment storage, sales, service or repair.
 - f. Uses that require proximity to rural resources, as defined in OAR 660-04-022- (3)(a).
9. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 10. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
 11. Marijuana processing, subject to the provisions of DCC 18.116.330.
 12. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- (Ord. 2020-001 §7, 2020; Ord. 2016-015 §5, 2016; Ord. 2015-004 §4, 2015; Ord. 2004-002 §16, 2004; Ord. 2001-039 §7, 2001; Ord. 2001-016 §2, 2001; Ord. 97-003 §2, 1997)

Chapter 18.67. TUMALO RURAL COMMUNITY ZONING DISTRICTS

18.67.020. Residential (TuR) District.

18.67.030. Residential-5 Acre Minimum (TuR5) District.

18.67.040. Commercial (TuC) District.

18.67.020. Residential (TuR) District.

B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116, 18.124, and 18.128:

1. Multi-family dwelling complex.
2. Retirement center or nursing home.
3. ~~Church~~Religious institutions or assemblies.
4. Cemetery.
5. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
6. Child care center.
7. Public or private school.
8. Park.
9. Public or semi-public building.
10. Utility facility.
11. Water supply or treatment facility.
12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
13. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2020-001 §8, 2020; Ord. 2004-002 §17, 2004; Ord. 2001-039 §8, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 97-033 §2, 1997)

18.67.030. Residential-5 Acre Minimum (TuR5) District.

B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:

1. ~~Church~~Religious institutions or assemblies.
2. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
3. Public or private school.
4. Child care center.
5. Park.
6. Public or semi-public building.
7. Utility facility.
8. Water supply or treatment facility.
9. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
10. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2020-001 §8, 2020; Ord. 2004-002 §18, 2004; Ord. 2001-039 §8, 2001; Ord. 2001-016 §2, 2001; Ord. 2000-033 §11, 2000; Ord. 97-063 §3, 1997; Ord. 97-033 §2, 1997)

18.67.040. Commercial (TuC) District.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable

provisions of DCC 18.116, 18.124, and 18.128:

1. ~~Church~~ Religious institutions or assemblies.
 2. Bed and breakfast inn.
 3. Child care center.
 4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 5. Park.
 6. Public or semi-public building.
 7. Utility facility.
 8. Water supply or treatment facility.
 9. Manufactured home/RV park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996 as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel as configured on June 12, 1996.
 10. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor space.
 - a. Farm equipment, sales, service or repair.
 - b. Trailer sales, service or repair.
 - c. Vehicle service or repair.
 - d. Veterinary clinic.
 11. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor space:
 - a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Marijuana processing, subject to the provisions of DCC 18.116.330.
 - d. Marijuana retailing, subject to the provisions of DCC 18.116.330.
 12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 13. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- (Ord. 2020-001 §8, 2020; Ord. 2016-015 §6, 2016; Ord. 2015-004 §5, 2015; Ord. 2004-013 §7, 2004; Ord. 2004-002 §19, 2004; Ord. 2001-039 §8, 2001; Ord. 2001-016 §2, 2001; Ord. 2000-033 §11, 2000; Ord. 97-063 §3, 1997; Ord. 97-033 §2, 1997)

Chapter 18.74. RURAL COMMERCIAL ZONE

18.74.010. Purpose.

18.74.020. Uses Permitted – Deschutes Junction and Deschutes River Woods Store.

18.74.025. Uses Permitted – Spring River.

18.74.027. Uses Permitted – Pine Forest and Rosland.

18.74.030. Development Standards.

18.74.050. Maps.

...

18.74.020. Uses Permitted – Deschutes Junction and Deschutes River Woods Store.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:

1. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
 - a. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 - b. Utility facility.
 - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - d. Child care center.
 - e. ~~Church~~ Religious institutions or assemblies.
 - f. School.
2. Recreational vehicle park
3. Mini-storage facilities limited to 35,000 square feet in size.
4. Marijuana retailing, subject to the provisions of DCC 18.116.330.

(Ord. 2020-001§9, 2020; Ord. 2016-015 §7, 2016; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2004-002 §20, 2004; Ord. 2002-019 §2, 2002)

...

Section 18.74.027. Uses Permitted – Pine Forest and Rosland.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:

1. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any of the following uses:
 - a. Home occupation as defined in DCC 18.04.
 - b. Utility facility.
 - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - d. Child care center.
 - e. ~~Church~~ Religious institutions or assemblies.
 - f. School.
 - g. Marijuana retailing, subject to the provisions of DCC 18.116.330.
2. Recreational vehicle park.
3. Mini-storage facilities limited to 35,000 square feet in size.

(Ord. 2020-001§9, 2020; Ord. 2016-015 §7, 2016; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2007-007 §1, 2007; Ord. 2003-080, §1, 2003)

Chapter 18.80 AIRPORT SAFETY COMBINING ZONE - AS

- 18.80.010. Purpose.**
- 18.80.020. Application of Provisions.**
- 18.80.022. Definitions.**
- 18.80.024. Imaginary Surfaces and Noise Impact Boundaries.**
- 18.80.026. Notice of Land Use and Permit Applications.**
- 18.80.028. Height Limitations.**
- 18.80.030. Redmond Municipal Airport.**
- 18.80.032. Bend Municipal Airport.**
- 18.80.034. Sunriver Airport.**
- 18.80.036. Sisters Eagle Air Airport.**
- 18.80.038. Cline Falls Airpark.**
- 18.80.040. Juniper Airpark.**
- 18.80.044. Land Use Compatibility.**
- 18.80.050. Uses Permitted Outright.**
- 18.80.054. Conditional Uses.**
- 18.80.056. Additional Requirements.**
- 18.80.058. Non-Conforming Uses.**
- 18.80.060. Variances.**
- 18.80.062. Dimensional Standards.**
- 18.80.064. Procedures.**
- 18.80.072. Water Impoundments.**
- 18.80.074. Wetland Mitigation, Creation, Enhancement and Restoration.**
- 18.80.076. Water Impoundment Notification.**
- 18.80.078. FAA Notification (Form 7460-1).**

...

18.80.022. Definitions.

BB. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, religious institutions or assemblies, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

(Ord. 2020-001 §10, 2020; Ord. 2018-006 §10, 2018; Ord. 2001-001 §2, 2001; Ord. 91-020 §1, 1991)

...

18.80.044. Land Use Compatibility.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future

community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body. [ORS 836.619; ORS 836.623(1); OAR 660-013-0080]

A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 DNL, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, ~~church~~religious institutions or assemblies, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 DNL. [NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.] (Ord. 2020-001 §10, 2020; Ord. 2018-006 §10, 2018; Ord. 2001-001 §2, 2001; Ord. 91-020 §1, 1991)

TABLE 2--Noise Compatibility*

Yearly Day-Night Average Sound Levels (DNL) in decibels

Land Uses	Below 65	65-70	70-75	75-80	80-85	Over 85
Residential						
Residential, other than mobile homes and transient lodgings	Y	N(1)	N(1)	N	N	N
Mobile home parks	Y	N	N	N	N	N
Transient lodgings	Y	N(1)	N(1)	N(1)	N	N
Public Use						
Schools	Y	N(1)	N(1)	N	N	N
Hospitals and nursing homes	Y	25	30	N	N	N
ChurchesReligious institutions or assemblies, auditoriums, and concert halls	Y	25	30	N	N	N
Governmental services	Y	Y	25	30	N	N
Transportation	Y	Y	Y(2)	Y(3)	Y(4)	Y(4)
Parking	Y	Y	Y(2)	Y(3)	Y(4)	N
Commercial Use						
Offices, business and professional	Y	Y	25	30	N	N
Wholesale and retail—building materials, Hardware and farm equipment	Y	Y	Y(2)	Y(3)	Y(4)	N
Retail trade—general	Y	Y	25	30	N	N
Utilities	Y	Y	Y(2)	Y(3)	Y(4)	N
Communication	Y	Y	25	30	N	N
Manufacturing and Production						
Manufacturing general	Y	Y	Y(2)	Y(3)	Y(4)	N
Photographic and optical	Y	Y	25	30	N	N
Agriculture (except livestock) and forestry	Y	Y(6)	Y(7)	Y(8)	Y(8)	Y(8)

Livestock farming and breeding	Y	Y(6)	Y(7)	N	N	N
Mining and fishing, resource production and extraction	Y	Y	Y	Y	Y	Y
Recreational						
Outdoor sports arenas and spectator sports	Y	Y(5)	Y(5)	N	N	N
Outdoor music shells, amphitheaters	Y	N	N	N	N	N
Nature exhibits and zoos	Y	Y	N	N	N	N
Amusements, parks, resorts and camps	Y	Y	Y	N	N	N
Golf courses, riding stables and water recreation	Y	Y	25	30	N	N

Chapter 18.88. WILDLIFE AREA COMBINING ZONE - WA

- 18.88.010. Purpose.**
- 18.88.020. Application of Provisions.**
- 18.88.030. Uses Permitted Outright.**
- 18.88.040. Uses Permitted Conditionally.**
- 18.88.050. Dimensional Standards.**
- 18.88.060. Siting Standards.**
- 18.88.070. Fence Standards.**

...

18.88.040. Uses Permitted Conditionally.

- A. Except as provided in DCC 18.88.040(B), in a zone with which the WA Zone is combined, the conditional uses permitted shall be those permitted conditionally by the underlying zone subject to the provisions of the Comprehensive Plan, DCC 18.128 and other applicable sections of this title. To minimize impacts to wildlife habitat, the County may include conditions of approval limiting the duration, frequency, seasonality, and total number of all outdoor assemblies occurring in the WA Zone, whether or not such outdoor assemblies are public or private, secular or religious.
 - B. The following uses are not permitted in that portion of the WA Zone designated as deer winter ranges, significant elk habitat or antelope range:
 - 1. Golf course, not included in a destination resort;
 - 2. Commercial dog kennel;
 - ~~3. Church;~~
 - 43. Public or private school;
 - 54. Bed and breakfast inn;
 - 65. Dude ranch;
 - 76. Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization;
 - 87. Timeshare unit;
 - 98. Veterinary clinic;
 - 109. Fishing lodge.
 - C. Subject to DCC 18.88.040(E), the following uses are permitted in that portion of the WA zone designated as the Bend/La Pine Deer Migration Corridor as conditional uses:
 - 1. ~~Church~~ Religious institutions or assemblies;
 - 2. Public or private school;
 - 3. Bed and breakfast inn;
 - 4. Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization;
- (Ord. 2020-001§11, 2020; Ord. 2018-003 §1, 2018; Ord. 2001-19 §1, 2001; Ord. 98-013 §1, 1998; Ord. 95-075 §1, 1995; Ord. 95-001 §3, 1995; Ord. 92-042 §1, 1992)

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE - SUNRIVER

- 18.108.010. Purpose.**
- 18.108.020 Standards for All Districts.**
- 18.108.030. Single Family Residential – RS District.**
- 18.108.040. Multiple Family Residential – RM District.**
- 18.108.050. Commercial – C District.**
- 18.108.055 Town Center – TC District**
- 18.108.060. Resort – R District.**
- 18.108.070. Resort Marina – RA District.**
- 18.108.080. Resort Golf Course – RG District.**
- 18.108.090. Resort Equestrian – RE District.**
- 18/108.100. Resort Nature Center – RN District.**
- 18.108.110. Business Park – BP District.**
- 18.108.120. Community General – CG District.**
- 18.108.130. Community Recreation – CR District.**
- 18.108.140 Community Limited – CL District.**
- 18.108.150 Community Neighborhood – CN District.**
- 18.108.160. Airport – A District.**
- 18.108.170 Utility – U District.**
- 18.108.175 Utility – U District / Limited Use Combining District**
- 18.108.180. Forest – F District.**
- 18.108.190. Flood Plain – FP Combining District.**

....

18.108.030. Single Family Residential - RS District.

B. Conditional Uses Permitted. The following uses may be permitted subject to DCC 18.128 and a conditional use permit:

1. Park, playground and picnic and barbecue area.
2. Fire station.
3. Library.
4. Museum.
5. Health and fitness facility.
6. Utility substations or pumping stations with no equipment storage or sewage treatment facilities.
7. Temporary subdivision sales office.
8. Community building.
9. ~~Church~~Religious institutions or assemblies.

(Ord. 2020-001 §12, 2020; Ord. 2004-013 §11, 2004; Ord. 98-035 §2, 1998; Ord. 97-078 §2, 1997

18.108.040. Multiple Family Residential - RM District.

B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit.

1. Park, playground and picnic and barbecue area.
2. Fire station.
3. Library.
4. Museum.
5. Utility substations or pumping stations with no equipment storage or sewage treatment facilities.
6. Off-street parking lots when contiguous to a less restrictive zoning district.
7. Community center.
8. ~~Church~~Religious institutions or assemblies.
9. Temporary sales office for on-site dwelling units.

10. Interval ownership and/or time-share unit or the creation thereof.

11. Health and fitness facility.

(Ord. 2020-001§12, 2020; Ord. 2004-002 §22, 2004; Ord. 99-036 §1, 1999; Ord. 97-078 §2, 1997)

18.108.050. Commercial - C District.

A. Uses Permitted Outright. Any combination of the following uses and their accessory uses are permitted outright in the C district.

1. Recreational path.
2. Ambulance service.
3. Library.
4. ~~Church~~Religious institutions or assemblies.
5. Bus stop.
6. Community center.
7. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 - a. Retail/rental store, office and service establishment.
 - b. Art galleries
 - c. Dry cleaner and/or self-service laundry establishment.
 - d. Radio and television sales and service.
 - e. Radio and television broadcasting studios and facilities, except towers.
 - f. Restaurant, bar and cocktail lounge, including entertainment.
 - g. Automobile service station.
 - h. Technical and business school.
 - i. Catering establishment.
 - j. Crafts in conjunction with retail sales (occurring on premises, such as stained glass/pottery, etc.).
 - k. Medical and dental clinic, office and laboratory.
 - l. Theater not exceeding 4,000 square feet of floor area.
 - m. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
8. Multiple-family residential dwelling units, subject to the provisions of DCC 18.108.050(C)(1).
9. Residential dwelling units constructed in the same building as a commercial use, subject to the provisions of DCC 18.108.050(C)(2).
10. Post Office.
11. Administrative and office facility associated with a community association or community use.
12. Police facility.

(Ord. 2020-001§12, 2020; Ord. 2016-015 §9, 2016; Ord. 2015-004 §9, 2015; Ord. 2003-026 §1, 2003; Ord. 98-016 §1, 1998; Ord. 97-078 §2, 1997)

18.108.055. Town Center – TC District

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the TC District.

1. Park or plaza.
2. Library.
3. Community center.
4. Visitors center.
5. A building, or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including any of the following uses:
 - a. Retail/rental store, office, civic and service establishment.
 - b. Grocery store.
 - c. Art gallery.

- d. Restaurant, bakery, delicatessen, pub, cocktail lounge, including entertainment.
 - e. Health care service including medical and dental clinic, office, pharmacy, and laboratory but excluding nursing homes.
 - f. Health & fitness facility.
 - g. Barber, beauty shop or spa.
 - h. Child care center, preschool and daycare facility.
 - i. Bank.
 - j. Post office.
 - k. Veterinary clinic (without animal boarding facilities).
 - l. Crafts in conjunction with retail sales (occurring on premises such as sculpture, stained glass, pottery, etc.).
 - m. Meeting room, convention and banquet facility.
 - n. Property sales, mortgage, management or rental office.
 - o. Movie theater.
- 6. Multi-family Residential, subject to paragraphs (E)(1) and (2).
 - 7. Developed recreational facilities, outdoors or in a building or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including, but not limited to the following facilities:
 - a. Indoor and outdoor swimming pools.
 - b. Ice skating rink.
 - c. Indoor and outdoor tennis courts.
 - d. Indoor and outdoor basketball court or other ball field.
 - e. Physical fitness facilities.
 - f. Park, playground and picnic and barbeque area.
 - g. Walkways, bike paths, jogging paths.
 - h. Bowling alley.
 - i. Arcade.
 - 8. Hotel with up to 100 hotel units in a single building.
 - 9. Mixed Use Structure, subject to the rules of DCC 18.108.055(E)(3) and a limit of 8,000 square feet of floor space for commercial uses listed in DCC 18.108.055(A)(5) or recreational uses listed in DCC 18.108.055(A)(7), unless said uses are approved as large scale uses pursuant to DCC 18.108.055(C).
 - 10. Residential Facility.
 - 11. Senior housing/assisted living or active adult development, excluding nursing homes.
 - 12. Townhomes, subject to paragraphs (E)(1) and (2).
 - 13. Accessory uses to uses permitted outright, including, but not limited to, parking facilities, private roads, storage facilities, trash receptacles and recycling areas.
 - 14. Similar uses to those allowed outright, provided they are approved by the County in the decision approving the Conceptual Site Plan described in DCC 18.108.055(K).
 - 15. Religious institutions or assemblies.

(Ord. 2020-001 §12, 2020; Ord. 2016-015 §9, 2016; Ord. 2015-004 §9, 2015; Ord. 2008-015 §2, 2008)

18.108.060. Resort - R District.

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the R District:
 - 1. Resort facility developed in a building or buildings of any size which house any combination of:
 - a. Meeting room, convention and banquet facility.
 - b. Resort recreation facilities.
 - c. Property sales and rental office.
 - d. Hotel, motel and lodging facility with up to 100 units in a single building.
 - e. Maintenance facility associated with resort and recreation operations.

- f. Storage building necessary for and associated with resort, recreation and/or property development.
- g. Administrative offices, support and service facilities commonly associated with resort and recreation development and operations.
- 2. Restaurant, bar and cocktail lounge including entertainment and catering facilities which are included within the same building as any of the uses listed in DCC 18.108.060(A)(1).
- 3. Retail sales, rental and repair services commonly associated with and included within the same building as any of the uses listed in DCC 18.108.060(A)(1).
- 4. Interval ownership and/or time-share unit or the creation thereof.
- 5. Multiple family residential dwelling units subject to and consistent with the standards of the RM District.
- 6. Recreational path.
- 7. Residential home.
- 8. Residential facility.
- 9. A building or buildings each not exceeding 8,000 square feet of floor space which conform with the height regulations and lot requirements of the R District and house any combination of:
 - a. New restaurant, bar and cocktail lounge, including entertainment and catering facilities which are not included within the same building as those uses listed in DCC 18.108.060(A)(1).
 - b. New retail sales, rental and repair services commonly associated with uses permitted outright or conditionally in the R District which are not included within the same building as those uses listed in DCC 18.108.060(A)(1).
- B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit:
 - 1. Public buildings and public utility buildings and structures as they may be appropriate to the R District.
 - 2. ~~Church~~Religious institutions or assemblies, club or fraternal organization.
 - 3. School.

(Ord. 2020-001 §12, 2020; Ord. 97-078 §2, 1997)

18.108.070. Resort Marina - RA District.

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the RA District:
 - 1. Marina.
 - 2. Park, playground and picnic and barbecue area.
 - 3. Recreational path.
 - 4. Restaurant, bar and cocktail lounge existing as of March 31, 1998.
 - 5. Religious institutions or assemblies.

(Ord. 2020-001 §12, 2020; Ord. 97-078 §2, 1997)

18.108.080. Resort Golf Course - RG District.

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the RG District:
 - 1. Golf course.
 - 2. Golf course accessory uses.
 - 3. Recreational path.
 - 4. Religious institutions or assemblies.

(Ord. 2020-001 §12, 2020; Ord. 97-078 §2, 1997)

...

18.108.100. Resort Nature Center - RN District.

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the RN District:

1. Nature center.
2. Recreational path.
3. Observatory.
4. Religious institutions or assemblies.

5.4. A building or buildings each not exceeding 8,000 square feet of floor space which conform with the height regulations and lot requirements of the RN District and house any combination of:

- a. Restaurant and food service commonly associated with and customarily appurtenant to the uses permitted outright in the RN District.
- b. Retail sales, rental and repair services commonly associated with uses permitted outright in the RN District.

(Ord. 2020-001 §1, 2020; Ord. 97-078 §2, 1997)

18.108.110. Business Park - BP District.

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:

1. Residential uses existing as of March 31, 1997.
2. Administrative, educational and other related facilities in conjunction with a use permitted outright.
3. Library.
4. Recreational path.
5. Post office.
6. ~~Church~~ Religious institutions or assemblies. ~~in building or buildings not exceeding 5,000 square feet of floor area.~~

7. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:

Retail/rental store, office and service establishment, including but not limited to the following:

- a. Automobile, motorcycle, boat, recreational vehicle, trailer or truck sales, rental, repair or maintenance business, including tire stores and parts stores.
- b. Agricultural equipment and supplies.
- c. Car wash.
- d. Contractor's office, including but not limited to, building, electrical, plumbing, heating and air conditioning, painter, etc..
- e. Construction equipment sales, rental and/or service.
- f. Exterminator services.
- g. Golf cart sales and service.
- h. Lumber yard, home improvement or building materials store.
- i. Housekeeping and janitorial service.
- j. Dry cleaner and/or self-service laundry facility.
- k. Marine/boat sales and service.
- l. Restaurant, bar and cocktail lounge including entertainment.
- p. Marijuana processing cannabinoid concentrates and cannabinoid products, subject to the provisions of DCC 18.116.330.
- q. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.

8. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:

- a. Scientific research or experimental development of materials, methods or products, including engineering and laboratory research.

- b. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials, including but not limited to cloth, paper, leather, precious or semi-precious metals or stones, etc.
- c. Manufacture of food products, pharmaceuticals and the like, but not including the production of fish or meat products, or the rendering of fats and oils.
- d. Warehouse and distribution uses in a building or buildings each less than 10,000 square feet of floor area.

(Ord. 2020-001 §12, 2020; Ord. 2016-015 §9, 2016; Ord. 2015-004 §9; 2015; Ord. 2012-002 §1, 2012; Ord. 97-078 §2, 1997)

18.108.120. Community General - CG District.

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:

- 1. School.
- 2. Utility substation, utility equipment storage and repair yard, and pump station.
- 3. Golf course.
- 4. Tennis court.
- 5. Swimming pool.
- 6. Park, playground and picnic and barbecue area.
- 7. Nature center.
- 8. Putting green.
- 9. Recreational path.
- 10. Equestrian facility.
- 11. Boat dock.
- 12. Health and fitness facilities.
- 13. Amphitheater.
- 14. Observatory.
- 15. Administrative and office facility associated with a community association or community use.
- 16. Police facility.
- 17. Fire station.
- 18. Public works facility.
- 19. Community center.
- 20. ~~Church~~Religious institutions or assemblies.
- 21. Warehouse and storage facilities accessory to and in conjunction with any use permitted outright in this district.
- 22. Residential home.
- 23. Residential facility.
- 24. A building or buildings each not exceeding 8,000 square feet of floor space which conform with the height regulations and lot requirements of the CG District and house any combination of:
 - a. Limited food and beverage service customarily accessory to and in conjunction with any use permitted outright or conditionally in this district.
 - b. Retail sales, rental and repair services commonly associated with uses permitted outright or conditionally in the CG District.

(Ord. 2020-001 §12, 2020; Ord. 2014-020 §1, 2014; Ord. 97-078 §2, 1997)

...

18.108.150. Community Neighborhood- CN District.

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:

- 1. School.
- 2. Utility substation, pump station and, utility equipment storage and repair yard.
- 3. Sewage treatment facility.
- 4. Tennis court.

5. Swimming pool.
6. Park, playground and picnic and barbecue area.
7. Recreational path.
8. Equestrian facility.
9. Health and fitness facility.
10. Amphitheater.
11. Observatory.
12. ~~Church~~ Religious institutions or assemblies.
13. Residential home.
14. Residential facility.
15. Daycare facility.
16. Administrative and office facility associated with a community association or community use.
17. Community center.
18. Police facility.

(Ord. 2020-001 §12, 2020; Ord. 98-016 §3, 1998; Ord. 97-078 §2, 1997)

Chapter 18.110. RESORT COMMUNITY ZONE

- 18.110.010. Purpose.**
- 18.110.020. Seventh Mountain/Widgi Creek and Black Butte Ranch Resort Districts.**
- 18.110.030. Widgi Creek Residential District.**
- 18.110.040. Black Butte Ranch Surface Mining / Limited Use Combining District.**
- 18.110.050. Black Butte Ranch Utility / Limited Use Combining District.**
- 18.110.060. Development Standards.**

...

- 18.110.020. Seventh Mountain/Widgi Creek and Black Butte Ranch Resort Districts.**

...

C. Conditional uses permitted. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.110 and DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use:

- 1. ~~Church~~ Religious institutions or assemblies.
- 2. Wireless telecommunications facility.

(Ord. 2020-001 §13, 2020; Ord. 2014-025 §1, 2014; Ord. 2014-009 §1, 2014; Ord. 2001-048 §2, 2001)

Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.030. Off-street Parking and Loading.

...

D. Number of Spaces Required. Off-street parking shall be provided as follows:

...

4. Places Of Public Assembly.

Use	Requirements
Church Religious institutions or assemblies	1 space per 4 seats or 8 feet of bench length in the main auditorium or 1 space for each 50 sq. ft. of floor area used for assembly
Library, reading room, museum, art gallery	1 space per 400 sq. ft. of floor area plus 1 space per 2 employees
Preschool, nursery or kindergarten	2 spaces per teacher
Elementary or junior high schools	1 space per 4 seats or 8 feet of bench length in auditorium or assembly room, whichever is greater, plus 1 space per employee.
High schools	1 space for each 6 students or 1 space per 4 seats or 8 feet of bench length in the main auditorium, whichever is greater, plus 1 space per employee
College or commercial school for adults	1 space per 3 seats in classrooms
Other auditorium or meeting room	1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 sq. ft. of floor space.

(Ord. 2020-001 §14, 2020; Ord. 2010-018 §1, 2010, Ord. 2004-013 §12, 2004; Ord. 2003-005 §2, 2003; Ord. 2002-015 §2, 2002, Ord. 2001-044 §4, 2001; Ord. 97-078 §6, 1997; Ord. 96-003 §7, 1996; Ord. 93-063 §2, 1993; Ord. 93-043 §19, 1993; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 90-017 §1, 1990)

Chapter 18.124. SITE PLAN REVIEW

- 18.124.010. Purpose.**
- 18.124.020. Elements of Site Plan.**
- 18.124.030. Approval Required.**
- 18.124.040. Contents and Procedure.**
- 18.124.050. Decision on Site Plan.**
- 18.124.060. Approval Criteria.**
- 18.124.070. Required Minimum Standards.**
- 18.124.080. Other Conditions.**
- 18.124.090. Right of Way Improvement Standards.**

...

18.124.030. Approval Required.

- A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.
- B. The provisions of DCC 18.124.030 shall apply to the following:
 - 1. All conditional use permits where a site plan is a condition of approval;
 - 2. Multiple-family dwellings with more than three units;
 - 3. All commercial uses that require parking facilities;
 - 4. All industrial uses;
 - 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, ~~churches~~ religious institutions or assemblies, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and
 - 6. As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).
 - 7. Non-commercial wind energy system generating greater than 15 to 100 kW of electricity.
- C. The provisions of DCC 18.124.030 shall not apply to uses involving the stabling and training of equine in the EFU zone, noncommercial stables and horse events not requiring a conditional use permit.
- D. Noncompliance with a final approved site plan shall be a zoning ordinance violation.
- E. As a condition of approval of any action not included in DCC 18.124.030(B), the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits.
(Ord. 2020-001§15, 2020; Ord. 2011-009 §1, 2011; Ord. 2003-034 §2, 2003; Ord. 94-008 §14, 1994; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 86-032 §1, 1986)

Chapter 18.128. CONDITIONAL USE

...

18.128.080. ~~Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.~~

18.128.090. Religious Institutions, Medical Clinic, Veterinary Clinic, Club, Lodge, Fraternal Organization, Community Center, Grange Hall, Golf Course, Horse Stable and Horse Events Requiring Conditional Uses, Grounds and Buildings For Games or Sports, Country Club, Swimming, Boating, Tennis Clubs and Similar Activities, Government Structures and Land Uses, Parks, Playgrounds.

...

18.128.080. ~~Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.~~

- A. Such a use shall be authorized as a conditional use only upon finding that sufficient area is provided for the building, required yards and off-street parking. ~~Related structures and uses such as a manse, parochial school or parish house are considered separate uses and additional lot areas shall be required therefore.~~
- B. The applicant shall address the following issues in the application:
 - 1. Probable growth and needs thereof.
 - 2. Site location relative to land uses in the vicinity.
 - 3. Conformity with Deschutes County Road Department standards for proposed access to and from principal streets and the probable effect of the proposal on the traffic volume of adjoining and nearby streets.
- C. Such uses or related buildings shall be at least 30 feet from a side or rear lot line.
- D. Except as provided in Section 18.80.028 of the A-S zone, such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

(Ord. ~~2020-001~~§16, 2020; Ord 2018-003 §2, 2018; Ord. 2006-008 §9, 2006; Ord. 2004-013 §14, 2004; Ord. 98-013 §2, 1998; Ord. 95-075 §1, 1995; Ord. 93-043 §23A, 1993; Ord. 91-020 §1, 1991)

18.128.090. Religious Institution or Assembly, Medical Clinic, Veterinary Clinic, Club, Lodge, Fraternal Organization, Community Center, Grange Hall, Golf Course, Horse Stable and Horse Events Requiring Conditional Uses, Grounds and Buildings For Games or Sports, Country Club, Swimming, Boating, Tennis Clubs and Similar Activities, Government Structures and Land Uses, Parks, Playgrounds.

In considering the above, the Planning Director or Hearings Body may authorize the conditional use after it has been determined that the following will be provided:

- A. Access from principal streets subject to Deschutes County Road Department standards.
- B. Off-street parking subject to DCC 18.116.030.
- C. Building and site design provisions, including landscaping, that will effectively screen neighboring uses from noise, glare, odor and other adverse impacts.
- D. Playgrounds, religious institutions or assemblies, recreation facilities and community centers in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.

(Ord. ~~2020-001~~§16, 2020; Ord. 98-013 §§3, 1998; Ord. 95-075 §1, 1995; Ord. 91-020 §1, 1991)

Chapter 19.04. TITLE, COMPLIANCE, APPLICABILITY, AND DEFINITIONS

19.04.040. Definitions.

19.04.040. Definitions.

As used in DCC Title 19, words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; unless the context clearly indicates the contrary, the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; and the term "this title" shall be deemed to include the text of this title and accompanying zoning maps and all amendments hereafter made thereto. As used in this title, unless the context requires otherwise, the following words and phrases shall be defined as set forth in DCC 19.04.040.

~~"Church" means a permanently located building commonly used for religious worship, fully enclosed with walls (including windows and doors), having a roof (canvas or fabric excluded) and conforming to applicable legal requirements affecting design and construction.~~

"Religious Institution or Assembly" means, so long as having public charity status as a religious assembly or institution established with the Internal Revenue Service, either (consistent with ORS 215.441(1)) a church, synagogue, temple, mosque, chapel, meeting house, or other nonresidential place of worship, or (consistent with 42 USCA § 2000cc-5(7)(B)) the use, building, or conversion of real property for the purpose of religious exercise.

(Ord. 2020-001§17, 2020; Ord. 2017-009 §7, 2017; Ord. 2016-016 §1, 2016; Ord. 2014-016 §1, 2014; Ord. 2013-013 §1; Ord. 99-001 §§2-4, 1999; Ord. 97-038 §1, 1997; Ord. 97-017 §1, 1996; Ord. 96-071 §1D, 1996; Ord. 95-045 §15, 1995; Ord. 94 027 §§1 & 2, 1994; Ord. 92-043 §1, 1992; Ord. 91 029 §§1, 8, 9 and 10, 1991; Ord. 91-001 §1, 1991; Ord. 90-038 §1, 1990; Ord. 90-007 §1, 1990; Ord. 88-042 §3, 1988; Ord. 86-058 §1, 1986; Ord. 86-055 §1, 1986; Ord. 86-033 §1, 1983; Ord. 86-032 §1, 1986; Ord. 86-017 §1 Exhibit a, 1986; Ord. 830945 §1, 1983; Ord. 83-041 §2, 1983; Ord. 80-217 §1 Exhibit A, 1980)

Chapter 19.08. ESTABLISHMENT OF ZONES AND ZONING MAPS

19.08.020. Application of Regulations to Zones Generally.

Except as hereinafter otherwise provided:

- A. No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner that is not included among the uses hereinafter listed as permitted in the zone in which such building, land or premises is located.
- B. No building or part thereof or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located.
- C. No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged, rebuilt or moved into any zone, nor shall any open space be encroached upon or reduced in any manner except in conformity with the yard, setback, building location, site area and coverage requirements hereinafter prescribed for the zone in which such building or open space is located.
- D. No yard or other open space provided about any building or on any building lot shall be considered as providing a yard or other open space for any other building or any other building lot for the purpose of complying with the provisions of DCC Title 19.
- E. Compliance with the Religious Land Use and Institutionalized Persons Act supersedes all other aspects of DCC Title 19.

(Ord. 2020-001§18, 2020; Ord. 90-038 §1, 1990)

Chapter 19.12. URBAN AREA RESERVE ZONE UAR-10

19.12.030. Conditional Uses.

19.12.030. Conditional Uses.

The following conditional uses may be permitted subject to a conditional use permit and the provisions of DCC 19.76 and 19.100.

- A. Dude or guest ranch.
- B. Commercial riding stable subject to DCC 19.88.020.
- C. Livestock sales yard.
- D. Commercial livestock feeding yard.
- E. Mining, quarrying or other extraction, processing or refining of ore of other natural resource material subject to DCC 19.88.100.
- F. Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery within 200 feet of a lot in a residential zone and subject to DCC 19.88.030.
- G. Churches ~~Churches~~ Religious institution or assembly.
- H. Community buildings, lodge and fraternal organizations, except those carried on as a business for profit.
- I. Public, parochial and private schools, but not including business, dancing, trade, technical or similar schools.
- J. Parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
- K. Recreation facility, public or private, but not including such intensive commercial recreation uses as a race track or amusement park.
- L. Utility substations or pumping stations with no equipment storage and sewage treatment facilities subject to DCC 19.88.120.
- M. Kennel or animal hospital subject to DCC 19.88.020.
- N. Planned unit development subject to DCC 19.104.
- O. Destination resort, where mapped in the Bend Area General Plan destination resort map, subject to DCC 19.106.
- P. A plant nursery subject to DCC 19.88.180.
- Q. Time share unit or the creation thereof, subject to DCC 19.88.230.
- R. Hydroelectric facility subject to DCC 19.88.190.
- S. Farm stands other than those permitted pursuant to DCC 19.12.020, subject to DCC 19.76 and DCC 19.100.090.

(Ord. 2020-001 §19, 2020; Ord. 2008-14 §3, 2008; Ord. 99-001, §3, 1999; Ord. 91-001, §3, 1991; Ord. 88-042 §5, 1988; Ord. 86-017 §3, 1986; Ord. 83-045 §2, 1983; Ord. 81-006 §1, 1981; Ord. 80-217 §1, 1980)

Chapter 19.20. SUBURBAN LOW DENSITY RESIDENTIAL ZONE - SR 2 1/2

19.20.030. Conditional Uses.

19.20.030. Conditional Uses.

The following conditional uses may be permitted subject to a conditional use permit as provided in DCC 19.76 and 19.100:

- A. ~~Churches~~Religious institution or assembly subject to DCC 19.88.040.
- B. Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district and subject to DCC 19.88.030.
- C. Community buildings, lodge and fraternal organizations, except those carried on as a business for profit, and subject to DCC 19.88.050.
- D. Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; but not including business, dancing, trade, technical or similar schools subject to DCC 19.88.160.
- E. Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses or similar uses.
- F. Recreation facilities, public or private; but not including such intensive commercial recreation uses as a racetrack or amusement park.
- G. Utility substations or pumping stations with no equipment storage and sewage treatment facilities subject to DCC 19.88.120.
- H. Keeping of livestock subject to DCC 19.88.070.
- I. Kennel or commercial riding stable subject to DCC 19.88.020.
- J. Planned unit development subject to the provisions of DCC 19.104.
- K. Plant nurseries subject to DCC 19.88.180.
- L. Hydroelectric facility subject to DCC 19.88 and 19.100.
- M. Time share unit subject to DCC 19.88.230.

(Ord. 2020-001§20, 2020; Ord. 91-001 §5, 1991, Ord. 88-042 §7, 1988; Ord. 86-017 §5, 1986; Ord. 83-045 §3, 1983; Ord. 81-006 §2, 1981)

Chapter 19.22. WESTSIDE TRANSECT ZONE – WTZ

19.22.030. Conditional Uses.

19.22.030. Conditional Uses.

The following uses and their accessory uses may be permitted subject to site plan review and a conditional use permit as provided in DCC 19.76, 19.88, and 19.100:

A. Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; but not including business, dancing, trade, technical or similar schools subject to DCC 19.88.160.

B. Parks and recreation facilities, community buildings and fire stations; but not including storage or repair yards, warehouses or similar uses.

C. Utility facility, including wireless telecommunications facilities, subject to DCC 19.88.120.

D. ~~Churches~~ Religious institutions or assemblies.

(Ord. 2020-001 §21, 2020; Ord. 2019-001 §8, 2019)

Chapter 19.28. URBAN STANDARD RESIDENTIAL ZONE - RS

19.28.030. Conditional Uses.

19.28.030. Conditional Uses.

The following uses may be permitted subject to a conditional use permit and the provisions of DCC 19.76 and 19.100:

- A. Manufactured home subdivision subject to standards of DCC 19.88.280.
- B. ~~Church~~ Religious institutions or assemblies subject to DCC 19.88.040.
- C. Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district and subject to DCC 19.88.030.
- D. Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; excluding business, dancing, trade, technical or similar schools subject to DCC 19.88.160.
- E. Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses or similar uses.
- F. Recreation facilities, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a racetrack or amusement park.
- G. Utility substations or pumping stations with no equipment storage or sewage treatment facilities.
- H. Planned unit developments subject to provisions of DCC 19.104.
- I. Temporary subdivision tract offices.
- J. Rear lot development subject to site plan approval as provided in DCC 19.76 and DCC 19.88.130.
- K. Community buildings, lodge and fraternal organizations, except those carried on as a business for profit and subject to DCC 19.88.050.
- L. Duplex in areas designated RS provided that each lot occupied by a duplex shall have a minimum area of 12,000 square feet.
- M. Two single-family dwellings on one lot in areas designated RS provided that each lot occupied by two single-family dwellings shall have a minimum area of 12,000 square feet and also provided that all yard and coverage requirements set forth in DCC 19.28.050 are observed. In addition, no dwelling unit shall be located within 10 feet of any other dwelling unit on the same lot. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.
- N. Keeping of livestock subject to DCC 19.88.070.
- O. Moving in a single-family dwelling built prior to January 1, 1961.
- P. Manufactured home park subject to DCC 19.88.280.
- Q. Condominiums.
- R. Plant nurseries subject to DCC 19.88.180.
- S. Time share unit or the creation thereof, subject to DCC 19.88.230.
- T. Hydroelectric facility in accordance with DCC 19.100 and DCC 19.88.190.
- U. Dwelling groups, subject to the provisions of DCC 19.88.250.
- V. Radio and television transmission facilities.
- W. Bed and breakfast inn, subject to the standards set forth in DCC 19.88.260.
- X. Residential care facility.
- Y. Zero Lot Line Subdivision or Partition. Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.
(Ord. 2020-001 §22, 2020; Ord. 90-038 §1, 1990; Ord. 88-042 §8, 1988; Ord. 86-017 §7, 1986; Ord. 83-045 §5, 1983; Ord. 81-006 §4, 1981)

Chapter 19.80. OFF-STREET PARKING AND LOADING

19.80.040. Number of Spaces Required.

19.80.040. Number of Spaces Required.

Off-street parking shall be provided as follows:

...

D. Places of Public Assembly.

Church, Religious institution or assembly	1 space per 4 seats or 8 feet of bench length in the main auditorium
Library, Reading Room, Museum, Art Gallery	1 space per 400 sq. ft. of floor area plus 1 space per 2 employees
Preschool Nursery or Kindergarten	2 spaces per teacher
Elementary or Junior High School	1 space per employee, or 1 space per 4 seats or 8 ft. of bench length in auditorium, whichever is greater
High School	1 space per employee plus 1 space for each 6 students, or 1 space per 4 seats or 8 feet of bench length in the main auditorium, whichever is greater
College or Commercial School for adults	1 space per 3 seats in classrooms
Other Auditorium or Meeting Room	1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 sq. ft. of floor area.

...

(Ord. 2020-001§23, 2020; Ord. 88-042 §34, 1988)

Chapter 19.88. PROVISIONS APPLYING TO SPECIAL USE STANDARDS

~~19.88.040. Churches, Hospitals or Other Religious Institutions.~~

19.88.050. Religious Institution or Assembly, Community Buildings, Social Halls, Lodges, Fraternal Organization and Clubs.

~~19.88.040. Churches, Hospitals or Other Religious Institutions.~~

In any residential zone, ~~churches, hospitals or other religious institutions~~ may be located on an arterial or collector street. Such uses may also be located on a local street provided that there is sufficient access to arterial or collector streets and that such uses do not unduly impact residential areas. Access and required off-street parking shall be designed to minimize impact on existing traffic patterns and adjoining properties. All buildings shall be set back 30 feet from side and rear lot lines and all off-street parking facilities shall be screened from abutting properties. No sign shall exceed 10 square feet in size or be internally illuminated.

(~~Ord. 2020-001§24, 2020;~~ Ord. 88-044 §1, 1982)

19.88.050. Religious Institution or Assembly, Community Buildings, Social Halls, Lodges, Fraternal Organization and Clubs.

All buildings shall be set back a minimum of 30 feet from a side or rear lot line. There shall be no external evidence of any incidental commercial activities taking place within the building. All such uses shall be located on a major street or road and be able to provide access without causing traffic congestion on local residential streets.

(Ord. 90-038 §1, 1990)

B. Eligibility. Property must be less than four acres in area. Property must be so situated that further subdivision or segregation under terms of other applicable county ordinances and regulations is not possible, either individually or in conjunction with any other adjacent property. Minimum Area: Twice that required by the applicable zone. Minimum Depth: 200 feet. Minimum Width: As required by applicable zones.

C. Development Standards. Provided the eligibility requirements are met, a permit may be issued subject to the following standards and criteria:

1. Front Parcel: Minimum Lot Width: Ten feet less than required by applicable zones. Minimum Lot Depth: 100 feet. Yard Requirements: Same as required in applicable zones.
2. Rear Parcel: Access Way Minimum: Twenty feet for first 150 feet; 30 feet if access way is greater than 150 feet. Maximum Access Way Width: Thirty feet. Yard Requirements: No building shall be erected within 10 feet of any property line. Area of rear lot shall be within 15 percent of the area of the front lot. Access way shall be paved and shall be an integral part of the rear lot. Development of property is subject to approval by the Planning Director or Hearings Body. Applicant shall submit a site plan for all buildings, structures and other improvements, such as roadways, walks and parking facilities to the Planning Director or Hearings Body for approval. All improvements made on the property shall conform to the plans as approved by the Planning Director or Hearings Body.

(~~Ord. 2020-001§24, 2020;~~ Ord. 90-038 §1, 1990)

Chapter 19.92. INTERPRETATIONS AND EXCEPTIONS

19.92.030. Exception to Height Regulations.

19.92.030. Exception to Height Regulations.

Height limitations set forth elsewhere in DCC Title 19 shall not apply to barns, silos, water towers and tanks or other farm buildings and structures, provided they are not less than 50 feet from every lot line; public schools, chimneys, ~~church~~ religious institutions or assemblies spires, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, fire hose towers, masts, aerials, elevator shafts and other similar projections and outdoor theater screens, provided said screens contain no advertising matter other than the name of the theater. This exception does not apply to the solar access provisions of DCC 19.88.210 and 19.88.220.

(Ord. 2020-001 §25, 2020; Ord. 92-037 §1, 1992; Ord. 83-041 §19, 1983)

Chapter 23.01 COMPREHENSIVE PLAN

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-001, are incorporated by reference herein.
- T. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.

- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-005, are incorporated by reference herein.
- CC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- DD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- EE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- FF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- GG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.
- HH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.
- II. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-006, are incorporated by reference herein.
- JJ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-019, are incorporated by reference herein.
- KK. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2020-001, are incorporated by reference herein.

(Ord. 2020-001 §26, 2020; Ord. 2019-019 §2, 2019; Ord. 2019-006 § 1, 2019; Ord. 2019-011 § 1, 2019; Ord. 2019-004 §1, 2019; Ord. 2019-003 §1, 2019; Ord. 2019-001 §1, 2019; Ord. 2019-002 §1, 2019; Ord. 2018-008 §1, 2018; Ord. 2018-005 §2, 2018; Ord. 2018-011 §1, 2018; Ord. 2018-006 §1, 2018; Ord. 2018-002 §1, 2018; Ord. 2017-007 §1, 2017; Ord. 2016-029 §1, 2016; Ord. 2016-027 §1, 2016; Ord. 2016-005 §1, 2016; Ord. 2016-022 §1, 2016; Ord. 2016-001 §1, 2016; Ord. 2015-010 §1, 2015; Ord. 2015-018 § 1, 2015; Ord. 2015-029 § 1, 2015; Ord. 2015-021 § 1, 2015; Ord. 2014-027 § 1, 2014; Ord. 2014-021 §1, 2014; Ord. 2014-12 §1, 2014; Ord. 2014-006 §2, 2014; Ord. 2014-005 §2, 2014; Ord. 2013-012 §2, 2013; Ord. 2013-009 §2, 2013; Ord. 2013-007 §1, 2013; Ord. 2013-002 §1, 2013; Ord. 2013-001 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord. 2011-017 repealed; Ord.2011-003 §3, 2011)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/compplan>)

Section 2.6 Wildlife

Background

Wildlife diversity is a major attraction of Deschutes County. It was mentioned in many Comprehensive Plan meetings in 2008 and 2009 as important to the community. Healthy wildlife populations are often a sign of a healthy environment for humans as well as other species. The key to protecting wildlife is protecting the habitats each species needs for food, water, shelter and reproduction. Also important is retaining or enhancing connectivity between habitats, in order to protect migration routes and avoid isolated populations.

Wildlife is tied to land use planning because human development impacts habitats in complex ways. Wildlife protections are provided by federal, state and local governments. Oregon land use planning protects wildlife with Statewide Planning Goal 5, Open Spaces, Scenic and Historical Areas and Natural Resources and the associated Oregon Administrative Rule (OAR) 660-023 (this Rule replaced 660-016 in 1996). Statewide Goal 5 includes a list of resources which each local government must inventory, including wildlife habitat.

The process requires local governments to inventory wildlife habitat and determine which items on the inventory are significant. For sites identified as significant, an Economic, Social, Environmental and Energy (ESEE) analysis is required. The analysis leads to one of three choices: preserve the resource, allow proposed uses that conflict with the resource or strike a balance between the resource and the conflicting uses. A program must be provided to protect the resources as determined by the ESEE analysis.

In considering wildlife habitat, counties rely on the expertise of the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS). Those agencies provide information for the required wildlife inventory and recommendations on how to protect wildlife habitat on private lands. Note that this section focuses on wildlife, while fish are covered in the Water Resources section of this Plan.

Wildlife Designations

Comprehensive Planning for Wildlife

Plan 2000, the Comprehensive Plan adopted in 1979, included a Fish and Wildlife Chapter with policies aimed at protecting wildlife. That Plan also noted the controversial nature of wildlife protections. To implement the Plan policies, the Wildlife Area Combining Zone was adopted. This overlay zone was intended to protect identified big game habitat through zoning tools such as appropriate lot sizes and setbacks. In 1986 a River Study was completed and adopted into the Resource Element. Goals and policies from that study, including wildlife goals, were added to Plan 2000.

As part of State mandated Periodic Review, the County took another look at wildlife protections to further comply with the requirements of Goal 5 and the then prevailing OAR 660-16. The County worked with the ODFW to obtain the most recent inventory information on fish and wildlife resources in the county and to identify uses conflicting with those resources. This information was used to update the inventories and amend the ESEE analyses.

In addition, ODFW provided information to support zoning ordinance provisions to resolve conflicts between fish and wildlife resource protection and development. The County adopted a Sensitive Bird and Mammal Combining Zone which identified and protected specific bird nests or leks and bat hibernating or nursery sites.

Ordinances for Compliance with Goal 5

During periodic review in 1992, Deschutes County met the requirements of Goal 5 by:

- The adoption of Goals and Policies in Ordinance 92-040 reflecting Goal 5 requirements, including a Sensitive Bird and Mammal Combining Zone to identify and protect specific bird nests or leks and bat hibernating or nursery sites;
- The adoption of Ordinance 92-041 amended the comprehensive plan to inventory each Goal 5 resource, analyze conflicting uses, and analyze the ESEE consequences of protecting or not protecting inventoried fish and wildlife resources;
- The adoption of zoning ordinance provisions in Ordinance 92-042, as applied to inventoried sites by the map adopted by Ordinance 92-046.

In 2015, the Land Conservation and Development Commission (LCDC) adopted rules to Oregon Administrative Rule (OAR) chapter 660, division 23, to establish procedures for considering development proposals on lands identified as Greater Sage-Grouse Area Habitat. Deschutes County met the requirements by:

- Adopting the 2015 Goal 5 Greater Sage Grouse habitat Area Inventory Map into its Comprehensive Plan and amending the Sensitive Bird and Mammal Habitat Inventory to remove 1990 sage grouse lek and range data by Ordinance 2015-010 (Those maps are incorporated by reference herein); and,
- Adopting sage grouse regulations as a Greater Sage Grouse Area Combining Zone by Ordinance 2015-011.

Wildlife Snapshot 2008-2009

Source: County GIS data

- There are 816,649 acres in Deschutes County's Wildlife Area Combining Zone.
- There are 40 sites protected by the Sensitive Bird and Mammal Habitat Combining Zone.
- 76% of County land is owned and managed by the Federal government through the U.S. Forest Service and Bureau of Land Management.

Source: Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008 May 2009 Prepared for Oregon Department of Fish and Wildlife by Dean Runyan Associates

- Nearly \$70 million was spent in Deschutes County on travel generated expenditures on wildlife viewing, fishing and hunting by people from over 50 miles away.
- Over 60% of the \$70 million noted above was spent for wildlife viewing, with fishing second with nearly 30% and nearly 10% on hunting.
- Over \$8 million in revenue from fishing, hunting and wildlife viewing came from people who live in the County or within 50 miles of the County.
- Over 60% of the \$8 million noted above was spent on fishing, over 20% was spent on hunting and under 20% was spent on wildlife viewing.
- All total, over \$78 million was spent in Deschutes County on fishing, hunting and wildlife viewing.

Deer Migration Corridor

The Bend/La Pine migration corridor is approximately 56 miles long and 3 to 4 miles wide and parallels the Deschutes and Little Deschutes Rivers. The corridor is used by deer migrating from summer range in the forest along the east slope of the Cascades to the North Paulina deer winter range. Deschutes County adopted a “Deer Migration Priority Area” based on a 1999 ODFW map submitted to the South County Regional Problem Solving Group. This specific sub-area is precluded from destination resorts.

Deer Winter Range

The ODFW identified the Metolius, Tumalo and North Paulina deer winter ranges during Deschutes County’s initial comprehensive plan. The boundaries of these winter ranges are shown on the Big Game Sensitive Area map in the 1978 Comprehensive Plan and have been zoned with the Wildlife Combining Zone since 1979. The winter ranges support a population of approximately 15,000 deer.

In 1992, ODFW recommended deer winter range in the northeast corner of the county, in the Smith Rock State Park area, be included in the Deschutes County inventory and protected with the same measures applied to other deer winter range. This area was officially included and mapped on the Wildlife Combining Map when Ordinance 92-040 was adopted by the Board of County Commissioners.

Elk Habitat

The Land and Resource Management Plan for the Deschutes National Forest identifies 6 key elk habitat areas in Deschutes County. The ODFW also recognizes these areas as critical elk habitat for calving, winter or summer range. The following areas are mapped on the Big Game Habitat Area map and in the Deschutes National Forest Land and Resource Management Plan:

- Tumalo Mountain
- Kiwa
- Ryan
- Crane Prairie
- Fall River
- Clover Meadow

Antelope Habitat

The Bend and Ochoco District offices of the ODFW provided maps of the antelope range and winter range. The available information is adequate to indicate that the resource is significant. The antelope habitat is mapped on Deschutes County’s Big Game Habitat-Wildlife Area Combining Zone Map.

Sensitive Birds

Nest sites for the northern bald eagle, osprey, golden eagle, prairie falcon, great grey owl, and great blue heron rookeries are inventoried in Ordinance No. 92-041. The area required for each nest site varies between species. The minimum area required for protection of nest sites has been identified by the ODFW in their management guidelines for protecting colony nesting birds, osprey, eagles and raptor nests.

Federal and State Wildlife Protections

Federal Protections

The primary federal protection for wildlife is the Endangered Species Act (ESA), which sets the preservation of biodiversity as its highest priority. Under ESA, National Oceanic Atmospheric Administration (NOAA) Fisheries or the U.S. Fish and Wildlife Service (USFWS) list species as threatened or endangered. ESA prohibits both federal actions that jeopardize listed species and private actions that result in the “taking” of listed species. Court rulings have explicitly determined that habitat modification can lead to a “taking,” even if the modification does not affect a specific individual member of the species. ESA authorizes civil and criminal suits be brought against entities that violate its substantive or procedural provisions.

There are two fish species and one bird species listed as federally threatened or endangered in Deschutes County. Fish are discussed under the Water Resources section of this chapter and the bird, the Northern Spotted Owl, has not been found on private lands.

State Protections

It is Oregon’s policy “to prevent the serious depletion of any indigenous species” (ORS 496.012). The Oregon Department of Fish and Wildlife maintains a list of fish and wildlife species determined to be either threatened or endangered according to OAR 635. When a species population is seriously depleted, recovery can be difficult and expensive as well as socially and economically divisive. To provide a positive approach to species conservation, a “sensitive” species classification was created under Oregon’s Sensitive Specie Rule (OAR 635-100-040). Table 2.7.1 lists species in Deschutes County that are listed by either federal or state wildlife agencies under the above mentioned laws.

Besides the listings of endangered or threatened, species can be federally listed as candidate species or species of concern. State listings include threatened, critical and vulnerable. Each status has a definition specifying different actions.

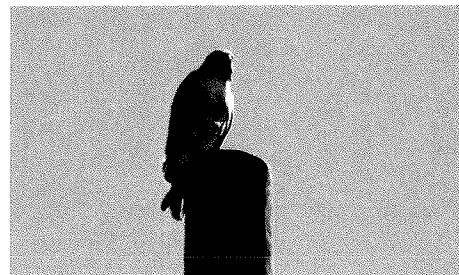


Table 2.6.1 - Special Status of Select Mammals, Birds, Amphibians, and Reptiles in Deschutes County 2009

<i>Species</i>	<i>State Status</i>	<i>Federal Status</i>
<i>Mammals</i>		
California Wolverine	Threatened	Species of Concern
Fisher	Critical	--
Fringed Myotis	Vulnerable	--
Long-eared Myotis	--	Species of Concern
Long-legged Myotis	Vulnerable	Species of Concern
Pallid Bat	Vulnerable	--
Preble's Shrew	--	Species of Concern
Pygmy Rabbit	Vulnerable	Species of Concern
Silver-haired bat	Vulnerable	Species of Concern
Small-footed Myotis	--	Species of Concern
Spotted bat	Vulnerable	--
Townsend's western big-eared bat	Critical	Species of Concern
Yuma Myotis	--	Species of Concern
<i>Birds</i>		
American Peregrine Falcon	Vulnerable	Delisted
Bald Eagle	Threatened	Delisted
Black Tern	--	Species of Concern
Black-backed Woodpecker	Vulnerable	--
Ferruginous Hawk	Vulnerable	Species of Concern
Flammulated Owl	Vulnerable	--
Great Gray Owl	Vulnerable	--
Greater Sage Grouse	Vulnerable	Species of Concern
Lewis' Woodpecker	Critical	Species of Concern
Loggerhead Shrike	Vulnerable	--
Long-billed Curlew	Vulnerable	--
Mountain Quail	Vulnerable	Species of Concern
Northern Goshawk	Vulnerable	Species of Concern
Northern Spotted Owl	Threatened	Threatened
Olive-sided Flycatcher	Vulnerable	Species of Concern
Pileated Woodpecker	Vulnerable	--
Swainson's Hawk	Vulnerable	--
Western Burrowing Owl	Vulnerable*	Species of Concern
White-head Woodpecker	Critical	Species of Concern
Willow Flycatcher	Vulnerable	Species of Concern
Yellow-breasted chat	--	Species of Concern
Yellow-billed cuckoo	Vulnerable	Candidate
<i>Amphibians and Reptiles</i>		
Cascades Frog	Vulnerable	Species of Concern
Coastal tailed frog	Vulnerable	Species of Concern
Northern Sagebrush Lizard	--	Species of Concern
Oregon slender salamander	Vulnerable	Species of Concern
Oregon Spotted Frog	Critical	Candidate
Western Pond Turtle	Critical	--
Western Toad	Vulnerable	--
* listed only for the Basin and Range Ecoregion		

Source: 2009 Interagency Report and ODFW

Oregon Department of Fish and Wildlife

Oregon Conservation Strategy

In 2006 the Oregon Conservation Strategy (OCS) was adopted by Oregon's Fish and Wildlife Commission for the state of Oregon. Wildlife and habitat issues are often crisis-driven and focused on individual species. The OSC is intended to provide a long-term, big-picture look, using the best available science, on how best to maintain and improve Oregon's species, habitats and ecosystems.

This document is not intended to be a set of regulations, but rather it presents issues, opportunities and recommended actions that can serve as the basis for regional collaborative actions. The recommendations within the OCS can be used to address species and habitat conservation needs, to expand existing partnerships and develop new ones, and to provide a context for balancing Oregon's conservation and development priorities. The future of many species will depend on landowners' and land managers' willingness to voluntarily take action on their own to improve fish and wildlife habitat.

The OCS works by defining ecoregions and offering an overview of each region that covers a variety of ecological, land use and economic issues. Parts of Deschutes County fall into three of the ecoregions; East Cascade, Blue Mountains and Northern Basin and Range. For Deschutes County this document offers a wealth of knowledge that can be used to inform fish and wildlife habitat policies and protect and enhance ecosystems.

Fish and Wildlife Habitat Mitigation Policy

The ODFW's Fish and Wildlife Habitat Mitigation Policy provides direction for their staff to review and comment on projects that may impact fish and wildlife habitat. This policy recognizes six distinct categories of wildlife habitat ranging from Category 1 – essential, limited, and irreplaceable habitat, to Category 6 – low value habitat. The policy goal for Category 1 habitat is no loss of habitat quantity or quality through avoidance of impacts by using development action if impacts cannot be avoided. The ODFW recommends avoidance of Category 1 habitats as they are irreplaceable, and thus mitigation is not a viable option. Categories 2-4 are for essential or important, but not irreplaceable habitats. Category 5 habitat is not essential or important, but has high restoration potential.

Interagency Report

In 2009 the USFW, ODFW, U.S. Forest Service and the Bureau of Land Management collaborated to provide a report on Wildlife in Deschutes County, *Updated Wildlife Information and Recommendations for the Deschutes County Comprehensive Plan Update* (Interagency Report). This report provided updated information to be used in revising the County Goal 5 inventory. This update will be done as part of the Goal 5 review as described in Section 2.4 of this Plan. The report also outlined numerous issues that the agencies believe are important for the County to address. The Interagency Report generated debate over how best to protect wildlife while also protecting the rights of property owners. Key issues from the report are touched on below.

Economic benefits of fish and wildlife: The report notes the ODFW report by Dean Runyan regarding the economic benefits of fishing, hunting and wildlife viewing, including that Deschutes County generated more freshwater fishing revenue than any other county in Oregon.

Oregon Conservation Strategy: The report discusses the Oregon Conservation Strategy described above and recommends that the County use it as a guide and reference for the maintenance and enhancement of wildlife resources.

Threatened and Endangered Species and Species of Concern: The report recommends developing and adopting measures to protect federal and state listed threatened and endangered species to limit conflicting use.

Riparian and wetland areas for wildlife and fish: The report recommends completing and adopting a Local Wetland Inventory. The current National Wetland Inventory was done at a scale so that wetlands under 5 acres are not identified. Yet, those wetlands provide significant habitat. Deschutes County adopted a Local Wetland Inventory for South County in 2011.

Oregon Spotted Frog: The report recommends adding an Oregon Spotted Frog habitat area to the wildlife area combining zone and provides some specific ideas for protecting those areas. The Oregon Spotted Frog can be found in the floodplains and wetlands along the Deschutes River and Little Deschutes River, south of Bend. Riverine oxbows are particularly key habitat. This frog is listed as a Federal Candidate and State Critical Species.

Shrub-Steppe Habitat: The report recommends the County consider impacts to wildlife and habitat when development will degrade shrub-steppe habitat. Shrub-steppe habitat provides needed resources for numerous birds and mammals, including 12 Oregon listed sensitive species, and one threatened species. Large blocks of un-fragmented habitat with low human disturbance are needed to support shrub-steppe wildlife. If avoidance of these areas is not possible, providing for “no net loss” and a “net benefit” (restoration) of shrub-steppe habitat should be a vital component of any conservation plan.

Greater Sage Grouse: The report provides recommendations for limiting conflicting uses near sage grouse leks and habitat. The population management objective for sage-grouse in this region (Prineville District), which includes portions of Deschutes and Crook counties, is to restore sage grouse numbers and distribution near the 1980 spring breeding population level, approximately 3,000 birds. Many aspects of human development have impacted sage grouse populations and can be considered conflicting uses. Conservation efforts focused on maintaining large expanses of sagebrush habitat, enhancing the quality of existing habitat, and increasing connections between suitable habitat patches would be most beneficial to maintaining healthy sage-grouse populations. Breeding and nesting habitat is particularly important because it is essential, limited and irreplaceable.

Critical Bird and Mammal Sites: The report does not recommend additional or modification of existing protections for site specific sensitive bird and mammal sites, except for additional protections for sage grouse. The report does provide a new inventory and site specific recommendations that will be used to update the list of Goal 5 wildlife resources.

Game Species: The report does not recommend changes to the existing big game winter range or migration corridor maps. It does recommend that the County revise the uses allowed in those areas to prohibit the following uses that generate activity, noise and habitat alteration:

- Guest ranch
- Outdoor commercial events (i.e. Wedding Venues, Farmers Market)
- OHV course
- Paintball course

- Shooting range
- Model airplane park
- BMX course

In 2019, stemming from an Oregon Court of Appeals affirming without opinion a Land Use Board of Appeals decision, Deschutes County amended its Wildlife Area Combining Zone to allow religious institutions and assemblies in deer winter range, elk habitat and antelope range. The reason for the amendment stemmed from the Religious Land Use and Institutionalized Persons Act of 2000 which protects individuals, houses of worship, and other religious institutions from discrimination in zoning laws. Deschutes County determined that allowing religious institutions and assemblies in the Wildlife Area Combining Zone should be allowed fully, notwithstanding the possible impacts on the winter deer range, elk habitat and antelope range.

Sensitive Species: Table 2.7.2 shows species considered sensitive to human disturbance. Mule deer are the only species in decline.

Table 2.7.2 - Big Game Population Estimates, Deschutes County (2009)

Species	Population
Mule Deer	9,337*
Elk	1,500
Pronghorn	1,000
Cougar	~150
Black Bear	~150
Silver Grey Squirrel	~800

* The management objective for the Paulina and Upper Deschutes Wildlife Management Units, primarily in Deschutes County, is an April adult population of 18,7000 mule deer.

Source: Interagency Report

Fish and Wildlife Habitat Mitigation Policy: The Interagency Report includes one recommendation that is only from the ODFW. They recommend that the County require impact avoidance for development that will impact Category 1 habitat and require a wildlife mitigation plan for development that will impact habitat Categories 2-5, to limit conflicting uses.

The Interagency Report recommendations will be considered more closely when the Goal 5 review is undertaken.

Future of Wildlife and Habitat in Deschutes County

Coordination

Much of the wildlife habitat in Deschutes County is located on public lands. Federal lands make up 76% of County lands with another 3% State or County owned. Federal lands are not subject to County regulation but as noted in the Forest section of this Plan, they are important economic generators that also contribute to the community's quality of life, providing ample opportunities for wildlife viewing, fishing and hunting. It should be noted that not all federal lands are managed for wildlife habitat.

Regarding public lands the County's role is to coordinate with the land management agencies to ensure development approved by the County does not impact wildlife.

Another area for coordination is with the Trust for Public Lands (TPL). In 2009 this non-profit group initiated a Greenprint effort that will identify specific areas needing protection, including wildlife habitat. A survey done by this organization identified protecting wildlife habitat as important to County residents.

Rural Development

The loss of wildlife species and habitat may lead to declining recreational opportunities, tourist dollars and quality of life. Yet, many species are sensitive to human development, with some species benefiting and some harmed by land disturbance. New structures or infrastructure can fragment habitats. Barriers such as roads, dams or housing can interfere with migration routes and connectivity leading to isolated and unhealthy populations. Development can also increase non-native and invasive species. Most Deschutes County residents consider the local wildlife as one of the benefits of living in this region. With careful planning, many of the impacts to wildlife habitat can be mitigated.

Section 2.6 Wildlife Policies

Goals and Policies

Goal 1 Maintain and enhance a diversity of wildlife and habitats.

- Policy 2.6.1 Goal 5 wildlife inventories, ESEEs and programs are retained and not repealed.
- Policy 2.6.2 Promote stewardship of wildlife habitats and corridors, particularly those with significant biological, ecological, aesthetic and recreational value.
- Policy 2.6.3 Ensure Goal 5 wildlife inventories and habitat protection programs are up-to-date through public processes and expert sources, such as the 2009 Interagency Report.
- Policy 2.6.4 Support incentives for restoring and/or preserving significant wildlife habitat by traditional means such as zoning or innovative means, including land swaps, conservation easements, transfer of development rights, tax incentives or purchase by public or non-profit agencies.
- Policy 2.6.5 Assist in providing information and education on wildlife and habitat protection.
- Policy 2.6.6 Review the Oregon Conservation Strategy when amending the Wildlife section of this Plan.
- Policy 2.6.7 Use a combination of incentives, regulations and education to promote stewardship of wildlife habitat and address the impacts of development.
- Policy 2.6.8 Balance protection of wildlife with wildland fire mitigation on private lands in the designated Wildland Urban Interface.

Goal 2 Promote the economic and recreational benefits of wildlife and habitat.

- Policy 2.6.9 Encourage wildlife related tourism.
- Policy 2.6.10 Coordinate with stakeholders to ensure access to significant wildlife and riparian habitat through public or non-profit ownership.

Goal 3 Support retaining populations of Federal and State protected endangered species.

- Policy 2.6.11 Develop local approaches, in coordination with Federal and State agencies, for protecting Federal or State Threatened or Endangered Species or Species of Concern.
- Policy 2.6.12 Address potential conflicts between large-scale development and sage grouse habitat using Ordinances Nos. 2010-010 and 2010-011, which are consistent with OAR 660-023-0115.

Section 3.5 Natural Hazards Policies

Goal and Policies

- Goal 1** **Protect people, property, infrastructure, the economy and the environment from natural hazards.**
- Policy 3.5.1 Adopt by reference the most recent Deschutes County Natural Hazards Mitigation Plan into this Plan.
- a. Review and evaluate this Section of the Comprehensive Plan every five years.
 - b. Adopt by reference Community Wildfire Protection Plans and revisions into this Plan.
- Policy 3.5.2 Cooperate and coordinate with stakeholders to:
- a. Analyze and address natural hazards;
 - b. Raise public awareness of natural hazards;
 - c. Support research or studies on natural hazard issues and solutions.
- Policy 3.5.3 Coordinate with emergency service providers when new development is proposed.
- Policy 3.5.4 Provide incentives and if needed regulations, to manage development in areas prone to natural hazards.
- Policy 3.5.5 Development should be designed to minimize alteration of the natural land form in areas subject to slope instability, drainage issues or erosion.
- Policy 3.5.6 Critical facilities (schools, religious institutions and assemblies churches, hospitals and other facilities as defined by the Federal Emergency Management Agency) should be located outside high risk natural hazard areas, where possible.
- Policy 3.5.7 Address wildfire danger particularly in the wildland urban interface.
- a. Survey and map wildfire hazard at risk areas using the Wildfire Hazard Identification and Mitigation System.
 - b. Survey and map all areas not protected by structural fire protection agencies.
- Policy 3.5.8 Support forest management practices that reduce severe wildfire hazard areas, as identified by the Wildfire Hazard Identification and Mitigation System, to a low or moderate rating, particularly in areas with development.
- Policy 3.5.9 Support local fire protection districts and departments in providing and improving fire protection services.
- Policy 3.5.10 Regulate development in designated floodplains identified on the Deschutes County Zoning Map based on Federal Emergency Management Act regulations.
- a. Participate in and implement the Community Rating System as part of the National Flood Insurance Program.
 - b. Cooperate with other stakeholders to identify alternatives for acquiring and/or relocating existing structures prone to flooding.

Policy 3.5.11 Review and revise County Code as needed to:

- a. Ensure that land use activities do not aggravate, accelerate or increase the level of risk from natural hazards.
- b. Address wildfire concerns to and from development, through consideration of site location, building construction and design, landscaping, defensible space, fuel management, access and water availability.
- c. Require development proposals to include an impact evaluation that reviews the ability of the affected fire agency to maintain an appropriate level of service to existing development and the proposed development.
- d. Minimize erosion from development and ensure disturbed or exposed areas are promptly restored to a stable, natural and/or vegetated condition using natural materials or native plants.
- e. Ensure drainage from development or alterations to historic drainage patterns do not increase erosion on-site or on adjacent properties.
- f. Make the Floodplain Zone a combining zone and explore ways to minimize and mitigate floodplain impacts.
- g. Require new subdivisions and destination resorts to achieve FireWise Standards from the beginning of the projects and maintain those standards in perpetuity.

Section 5.2 Glossary and Acronyms

Glossary

Note: Terms defined in Deschutes County Code 18.04 (Zoning Code) are not repeated here, but have the same meaning as DCC 18.04.

“Agricultural-tourism” or “Agri-tourism” means a commercial enterprise at a working farm or ranch, operated in conjunction with the primary farm or ranch use, conducted for the enjoyment and/or education of visitors, that promotes successful agriculture, generates supplemental income for the owner and complies with Oregon Statute and Rule.

“Aquifer” means a water-bearing rock, rock formation or a group of formations.

“Common Area” means ‘common property’ as defined in the Oregon Planned Communities Act at ORS 94.550(7).

“Community facilities” means public or privately owned facilities used by the public, such as streets, schools, libraries, parks and playgrounds; also facilities owned and operated by non-profit private agencies such as religious institutions or assemblies churches, settlement houses and neighborhood associations.

“Comprehensive Plan” means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water, transportation, educational and recreational systems and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “Generalized” mean a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semi-public and private agencies and the citizens have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

“Conservation” means limiting or minimizing the use or depletion of natural resources, including such things as land, energy, water or wildlife habitat.

“Ecosystem” means the physical and biological components and processes occurring in a given area, which interact to create a dynamic equilibrium.

“Findings” means a fact, determination or reason, based on existing information, which, by itself or in conjunction with other findings, leads to a particular conclusion or course of action.

“Goal Exception” means a land use process through which a local jurisdiction justifies, based on factual evidence, that a policy embodied in a particular statewide planning goal should not apply to a particular property or set of properties.

“Green design” means design and construction practices that significantly reduce the negative impacts of buildings on the environment and occupants.

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.

2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal 11 to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone

2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial
2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.

2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
2019-011	05-01-19/05-16/19	23.01.010, 4.2	Comprehensive Plan Map Amendment to adjust the Bend Urban Growth Boundary to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area I boundary. The ordinance also amends the Comprehensive Plan designation of Urban Area Reserve for those lands leaving the UGB.
2019-006	03-13-19/06-11-19	23.01.010,	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2019-016	11-25-19/02-24-20	23.01.01, 2.5	Comprehensive Plan and Text amendments incorporating language from DLCD's 2014 Model Flood Ordinance and Establishing a purpose statement for the Flood Plain Zone.

2019-019	12-11-19/12-11-19	23.01.01, 2.5	Comprehensive Plan and Text amendments to provide procedures related to the division of certain split zoned properties containing Flood Plain zoning and involving a former or piped irrigation canal.
<u>2020-001</u>	<u>1-8-20/4-20-20</u>	<u>23.01.01, 2.6, 3.5, 5.2</u>	<u>Comprehensive Plan and Text amendments relating to Religious Institutions to ensure compliance with RLUIPA.</u>

FINDINGS

RELIGIOUS INSTITUTION AMENDMENTS

I. PROPOSED AMENDMENTS

HISTORY

The Religious Land Use and Institutionalized Persons Act (RLUIPA) was adopted in 2000 by the United States Congress following testimony that land use and zoning regulations often placed a substantial burden on religious groups, thereby inhibiting their ability to express their religious freedom. In many cases, similar secular uses such as assembly halls, fraternal organizations, and museums were not facing the same burden and were receiving favorable treatment. RLUIPA established four general concepts for local governments to comply:

- 1) Bars “substantial burden” on religious exercise
- 2) Requires “equal terms” treatment of religious and secular uses
- 3) Bars discrimination on the basis of religion or type of religious practice
- 4) Bars total or unreasonable exclusion of religious institutions and assemblies

Many of Deschutes County’s regulations were established between 1970-1998, prior to the establishment of RLUIPA. In 2017, Deschutes County amended its zoning ordinance and comprehensive plan to allow churches in the Wildlife Area Combining Zone on the basis that prohibiting churches infringed religious freedom in a manner prohibited by RLUIPA. Deschutes County found that a risk of lawsuit from a property owner was so imminent that the code should be amended to address the issue at a countywide scale. Those changes were remanded by the Land Use Board of Appeals, due to the need for additional information on the impacts to Statewide Planning Goal 5, including the need for a more robust Economic, Social, Environmental, and Energy (ESEE) analysis¹ that analyzed the risk of actually losing an RLUIPA lawsuit as opposed to the risk of only defending such a lawsuit.

In 2018, through a separate land use decision, the County approved a church on an Exclusive Farm Use zoned property that is also located in the Wildlife Area Combining Zone, again on the basis that the County was potentially liable due to noncompliance with RLUIPA. On April 3, 2019, the Oregon Court of Appeals affirmed a Land Use Board of Appeals (LUBA) decision upholding the aforementioned County decision allowing a church on the property. Through this case, both LUBA and the Court of Appeals agreed with the County that prohibiting churches in the Wildlife Area Combining Zone while allowing other similar uses violates the equal terms clause of RLUIPA. As a result, the County determined the need to audit the remaining chapters of DCC to identify other areas of noncompliance with RLUIPA, while also analyzing the impact to Goal 5 acknowledged resources.

¹ Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces. ESEE required per OAR 660-023-0040

PROPOSAL

The Planning Division determined amendments to DCC Title 18, County Zoning, Title 19, Bend Urban Area Zoning and Title 23, Comprehensive Plan, are necessary to comply with RLUIPA. The proposed amendments to the Comprehensive Plan and DCC Title 18 are described in Ordinance Nos. 2020-001. Added language is underlined and deleted shown as ~~strikethrough~~.

Deschutes County is amending seventeen chapters of DCC Title 18 and eight chapters in DCC Title 19. A majority of the text amendments replace the word “church” or “churches” with “religious institution or assembly.” DCC Chapter 18.08, Basic Provisions and DCC 19.08, Establishment of Zones and Zoning Maps contain a new section that recognizes compliance with RLUIPA supersedes all other aspects of DCC Titles 18 and 19. Most notably, religious institutions and assemblies are being added as a use where they were previously prohibited in DCC 18.88, Wildlife Area Combining Zone, DCC 18.100, Rural Industrial and DCC 18.108, Urban Unincorporated Community Zone – Sunriver Town Center, Resort Marina, Golf Course, and Nature Center Districts. The following table summarizes the amendments.

Table 1: Summary of Religious Institution Amendments

Code	Description
Comprehensive Plan	
Section 2.6 Resource Management - Wildlife	Text describing the purpose of permitting religious institutions and assemblies in the Wildlife Area Combining Zone and other areas that may contain Goal 5 resources.
Section 3.5 Natural Resources	Replaces “churches” with “religious institution or assembly”
Section 5.2 Glossary and Acronyms	Replaces “churches” with “religious institution or assembly”
Title 18 - County Zoning	
Chapter 18.04, Title, Purpose and Definitions	Deletes definition of “Church.” Adds definition of “Religious Institution or Assembly.”
Chapter 18.08, Basic Provisions	Adds a new section describing compliance with RLUIPA
Chapter 18.16, Exclusive Farm Use Zones	Replaces “churches” with “religious institution or assembly”
Chapter 18.32, Multiple Use Agricultural Zone	Replaces “churches” with “religious institution or assembly”
Chapter 18.60, Rural Residential Zone	Replaces “church” with “religious institution or assembly”
Chapter 18.65, Rural Service Center – Unincorporated Zone	Replaces “church” with “religious institution or assembly”. Relists from conditional use to use subject to site plan review.
Chapter 18.66, Terrebonne Rural Community Zoning Districts	Replaces “church” with “religious institution or assembly”
Chapter 18.67, Tumalo Rural Community Zoning Districts	Replaces “church” with “religious institution or assembly”
Chapter 18.74, Rural Commercial Zone	Replaces “church” with “religious institution or assembly”.

Chapter 18.80, Airport Safety Combining Zone	Replaces “church” and “churches” with “religious institution or assembly”
Chapter 18.88, Wildlife Area Combining Zone	Removes prohibition of churches. Replaces “church” with “religious institution or assembly”
Chapter 18.108, Unincorporated Community Zone - Sunriver	Replaces “church” with “religious institution or assembly;” add religious institution or assembly as a use permitted outright in Town Center, Resort Marina, Golf Course, and Nature Center Districts. Removes limitations to building or buildings not exceeding 5,000 square feet of floor area in the Sunriver Business Park.
Chapter 18.110, Resort Community Zone	Replaces “church” with “religious institution or assembly”
Chapter 18.116, Supplemental Provisions	Replaces “church” with “religious institution or assembly”
Chapter 18.124, Site Plan Review	Replaces “church” with “religious institution or assembly”
Chapter 18.128, Conditional Use	Replaces “church” with “religious institution or assembly”. Relists conditional use criteria for religious institutions and assemblies from 18.128.080 to 18.128.090 for greater consistency with equal terms provisions.
Bend Urban Area Zoning Ordinance	
Chapter 19.04. Title, Compliance, Applicability, and Definitions	Deletes definition of “Church.” Adds definition of “Religious Institution and Assembly.”
Chapter 19.08, Urban Area Reserve Zone	Adds new section describing compliance with RLUIPA.
Chapter 19.12, Urban Area Reserve Zone	Replaces “churches” with “religious institution or assembly”
Chapter 19.20, Suburban Low Density Residential Zone	Replaces “churches” with “religious institutions and assemblies or assembly”
Chapter 19.22, Westside Transect Zone	Replaces “churches” with “religious institution or assembly”
Chapter 19.28, Urban Standard Residential Zone	Replaces “church” with “religious institution or assembly”
Chapter 19.80, Off-Street Parking and Loading	Replaces “church” with “religious institution or assembly”
Chapter 19.92, Interpretations and Exceptions	Replaces “church” with “religious institution or assembly”. Relists criteria for religious institutions and assemblies from 19.88.040 to 19.88.050 for greater consistency with equal terms provisions.

II. REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 19, 22, or 23 for reviewing a legislative plan and text amendment. Nonetheless, because this is a Deschutes County initiated amendment, the County bears the responsibility for demonstrating that the amendments are consistent with the Statewide Planning Goals and its Comprehensive Plan.

III. **FINDINGS**

A. **CHAPTER 22.12, LEGISLATIVE PROCEDURES**

1. Section 22.12.010.

Hearing Required

FINDING: This criterion will be met because a public hearing was held before the Deschutes County Planning Commission and Board of County Commissioners.

2. Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice was published in the Bend Bulletin newspaper on July 20, 2019 for the Planning Commission public hearing, and on November 2, 2019 for the Board of County Commissioner's public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: This criterion will be met as notice was posted for each hearing on the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion has been met.

3. Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board of County Commissioners, and has received a fee waiver. This criterion has been met.

4. Section 22.12.040. Hearings Body

A. The following shall serve as hearings or review body for legislative changes in this order:

- 1. The Planning Commission.***
- 2. The Board of County Commissioners.***

B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.

FINDING: The Deschutes County Planning Commission held the initial public hearing on August 8, 2019 and continued the hearing twice, on August 22 and September 12, 2019. The Planning Commission reviewed the proposal, but failed to pass a motion, and therefore forwarded the application without a recommendation to the Board of County Commissioners. The Board then held a public hearing on November 13, 2019. These criteria will be met.

5. Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file nos. 247-19-000512-PA/513-TA will be implemented by Ordinance 2020-001 upon approval and adoption by the Board of County Commissioners. This criterion will be met.

B. Statewide Planning Goals

The parameters for evaluating these specific amendments are based on an adequate factual base and supportive evidence demonstrating consistency with Statewide Planning Goals. The following findings demonstrate that the proposed amendments comply with applicable statewide planning goals and state law.

- **Goal 1, Citizen Involvement**

The adoption process for the proposed amendments included a public hearing before the Planning Commission and the Board of County Commissioners, consistent with ORS 215.060 and DCC 22.12.010. This goal is met.

- **Goal 2, Land Use Planning**

ORS 197.610 allows local governments to initiate post acknowledgment plan amendments (PAPAs). An Oregon Department of Land Conservation and Development 35-day notice was initiated on July 3, 2019. This findings document provides the adequate factual basis and documented analysis for this plan and zoning text amendment. This goal is met.

- **Goal 3, Agricultural Lands**

Religious institutions and assemblies are a use permitted in the EFU zone under ORS 215.283(1). Deschutes County is proposing a minor change to the use name, from “church” to “religious institution or assembly”, in order to be more inclusive and to comply with applicable state and federal statutes. This goal is met.

- **Goal 4, Forest Lands**

Religious institutions and assemblies are not allowed in Deschutes County’s Forest Use zones, consistent with state law. No changes related to forest lands are proposed as part of the text amendments. This goal does not apply.

- **Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces**

Local governments are required to apply Goal 5 to a PAPA when the amendment allows a new use and the new use “could be” a conflicting use with a particular Goal 5 resource site on an acknowledged resource list.² As the Sunriver Resort Marina (SURA), Sunriver Resort Nature Center (SURN), Sunriver Resort Golf Course (SURG), and WA zone contain Goal 5 resources, and are being amended to allow the new use, they are subject to an ESEE Analysis. No other changes to the code warrant specific ESEE Analysis as they are not adding a new use that conflicts with Goal 5 resources. The ESEE analysis is included in *Appendix A* which is attached to this document.

- **Goal 6, Air, Water and Land Resources Quality and Goal 7, Natural Hazards**

Deschutes County has a variety of code provisions pertaining to religious institutions and assemblies or assemblies that are designed to protect air, water, and land resources quality. These also assure religious institutions and assemblies or assemblies are not approved in areas that are subject to natural resources and natural hazards. These provisions include: DCC 18.16.025, Uses Permitted Subject to Special Provisions; 18.116, Supplementary Provisions; 18.124, Site Plan Review; and DCC 18.128 Conditional Use. This goal is met.

- **Goal 8, Recreational Needs**

Religious institutions and assemblies or assemblies are defined as community and institutional uses, not a recreational use or need. This goal does not apply.

- **Goal 9, Economic Development**

Religious institutions and assemblies or assemblies are defined as community and institutional uses, and are not primarily economic in nature. This goal does not apply.

² OAR 660-023-0250(3)(b)

- **Goal 10, Housing**

This goal typically pertains to municipalities, who are obligated to fulfill certain housing requirements. As the proposed amendments pertain to unincorporated areas, this goal does not apply.

- **Goal 11, Public Facilities**

Religious institutions and assemblies or assemblies in the rural county typically rely on domestic wells and onsite wastewater treatment systems. A Goal 11 exception would be required for a centralized sewer system and would need to be applied on a property specific, needs related basis. Deschutes County finds this goal does not apply.

- **Goal 12, Transportation**

Religious institutions and assemblies or assemblies can be embodied in a variety of congregation sizes and shapes. The Institute of Traffic Engineers (ITE) Trip Generation Manual provides data for churches, mosques, and synagogues for weekday and weekend use. Generally, religious buildings have higher usage on the weekends than weekdays by a substantial margin. The County bases its review of land use trips on weekday peak times. While it is difficult to identify the broad traffic impact of allowing religious institutions and assemblies or assemblies in the various County zones, the allowance of religious institutions and assemblies or assemblies into various zones will not result in any significant effect as defined by the Transportation Planning Rule (TPR) at OAR 660-012-060. The ITE Trip Generation manual notes religious buildings produce the majority of the traffic on weekends when the system volumes are much lower than weekdays and thus the road system has more capacity.

No roads are changing functional classification. The County's access management requirements are unchanged. Any proposed religious institution or assemblies will have to go through site plan review and will be vetted to see if a traffic study is required based on the thresholds of DCC 18.116.310. The traffic study would identify any adverse effects the religious institution or assembly would have to mitigate. Regardless if a traffic study is required or not, Board Resolution 2013-020 as amended sets a transportation system development charge (SDC) rate of \$4,448 per peak hour trip. The resulting SDC assessed on the religious institution or assembly, would provide funds for future transportation projects on the County's adopted Capital Improvement Plan (CIP). Deschutes County finds that compliance with Goal 12 and the Transportation Planning Rule can be verified at the individual land use review process through existing code provisions. This goal is met.

- **Goal 13, Energy Conservation**

The proposed text amendments alter the provisions surrounding religious institutions and assemblies or assemblies at a countywide level and are not property specific. Any future site-specific applications and subsequent entitlements will be required to incorporate energy conservation measures through the Oregon Building Code. Therefore, this goal does not apply.

- **Goal 14, Urbanization**

The purpose of Goal 14 is to direct urban uses to areas inside urban growth boundaries. As proposed amendments do not seek to allow urban uses on rural land, nor do they seek to expand an existing urban growth boundary, this goal does not apply.

- **Goals 15 through 19**

Deschutes County does not contain any of the relevant land types included in Goals 15-19. Therefore these goals do not apply.

C. Deschutes County Comprehensive Plan

Chapter 2, Resource Management

Section 2.6, Wildlife Policies

2.6.3 Ensure Goal 5 wildlife inventories and habitat protection programs are up-to-date through public processes and expert sources, such as the 2009 Interagency Report.

FINDING: As previously noted, Deschutes County concluded that DCC 18.88.040(B)(3)'s prohibition on a "church" in the Wildlife Area Combining Zone violates RLUIPA's Equal Terms provision because it allows nonreligious assemblies and institutions as conditional uses in the combining zone. LUBA and the Court of Appeals agreed. Deschutes County cannot treat religious institutions and assemblies or assemblies in the Wildlife Area Combining Zone on less favorable terms than non-religious assemblies with similar impacts on wildlife. The proposed code amendments are required to comply with RLUIPA and therefore, ensure Deschutes County's Goal 5 wildlife inventories and habitat protections remain up-to-date.

Religious institutions and assemblies Text Amendment

Appendix A: ESEE Analysis Document to

File Nos. 247-19-000512-PA / 513-TA

Deschutes County Community Development

December 17, 2019

Table of Contents

Chapter 1: Overview of Goal 5 and ESEE Analyses.....	12
Chapter 2: Deschutes County Goal 5 Inventory and Methodology.....	16
Chapter 3: Conflicting Use Analysis.....	18
Chapter 4: Impact Areas.....	21
Chapter 5: ESEE Analysis.....	22
Chapter 6: ESEE Decision.....	32
Chapter 7: Program to Achieve Goal 5.....	33

References

Attachment 1 – Inventory Site Maps

Attachment 2 – Deschutes County Goal 5 Inventory Summary Table

Attachment 3 – Oregon Department of Fish and Wildlife Testimony

Chapter 1: Overview of Goal 5 and ESEE Analyses

Introduction

This appendix report was prepared as part of the findings document associated with File Nos. 247-19-000512-PA / 513-TA. Deschutes County is amending the Comprehensive Plan and several chapters of the Deschutes County Code (DCC) to treat religious institutions and assemblies or assemblies (formally referred to as churches) and similar secular uses equally, consistent with the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

In 2018, the Land Use Board of Appeals (LUBA) issued a decision³ affirming approval of a church within the Wildlife Area (WA) Combining Zone, which was affirmed without opinion by the Oregon Court of Appeals.⁴ In that decision, LUBA found the County's WA Combining Zone (Chapter 18.88) did not treat religious institutions and assemblies and similar secular uses equally. The zone conditionally allowed for certain uses such as wineries, living history museums, and agri-tourism and other commercial events and activities, but prohibited religious assemblies. This unequal treatment was found to be in violation of RLUIPA, likely as RLUIPA was adopted more than eight years after the adoption of the WA Combining Zone and other zoning sections. Based on this decision, Deschutes County is proposing to amend several sections of the DCC and Comprehensive Plan to comply with RLUIPA and ensure equal treatment of religious institutions and assemblies and secular uses.

Deschutes County is proposing to amend several zoning code chapters to allow for religious institutions and assemblies and assemblies where other secular uses are currently allowed. DCC Chapter 18.88 is the WA combining zone, which recognizes three Goal 5 inventories: Deer Winter Range, Elk Habitat and Antelope Range. The Deer Migration Range portion of the WA Zone currently allows religious institutions and assemblies and assemblies and will not be altered by the proposed amendments. Deschutes County is also amending several districts in the Sunriver Urban Unincorporated Community (UUC) Zone (18.108) that contain Goal 5 riparian resources and their associated fish, furbearer, waterfowl, and upland game bird habitat. Recognizing that a religious institution or assembly is a new conflicting use in portions of the WA combining zone and in some districts in the Sunriver UUC, Deschutes County is required to apply Goal 5 in consideration of this PAPA. The full findings document provides additional detail and background information regarding the intent of the amendments and compliance with other applicable state and local regulations outside of Statewide Land Use Planning Goal 5 – *Natural Resources, Scenic and Historic Areas, and Open Spaces*.

³ *Central Oregon LandWatch v. Deschutes County*, Or LUBA_(LUBA No 2018-095, March 17, 2016).

⁴ *Central Oregon LandWatch v. Deschutes County*, 298 Or App 375 (2019).

Deschutes County Goal 5 Program

The purpose of Goal 5 is “to protect natural resources and conserve scenic and historic areas and open spaces.” Local governments, as part of the Comprehensive Planning process are required to inventory the extent, location, quality, and quantity of significant natural resources within its jurisdictional boundaries. Following this inventory, local governments then conduct an economic, social, environmental, and energy (ESEE) analysis to determine the extent to which land uses should be limited in order to adequately protect significant resources. Following an ESEE analysis, governments then establish a program to protect significant natural resources. Deschutes County established its initial Goal 5 natural resource inventory, ESEE analyses, and protection programs between the years of 1988-1994, as part of periodic review.

In reviewing this document, it’s important to remember there are six policies within the Deschutes County Code and the Deschutes County Comprehensive Plan that were established through ESEEs over time and that could still limit the development of religious institutions and assemblies or assemblies and similar uses near inventoried Goal 5 resources. Deschutes County finds it is important to note that the proposed amendments do not alter the following existing protections.

1. Setback Protections - 100-foot structural setback from the ordinary high water mark of rivers or streams.
2. Scenic Protections – development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections – prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections - Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by ODFW.
5. Flood Plain Protections - All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain obtain a conditional use permit.
6. Combining Zone Requirements: Winter Deer Range, Antelope Range, Elk Habitat, Deer Migration Corridors, Sage Grouse Habitat Area, and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and larger minimum lot sizes to prevent impact to sensitive species and habitat.

Required Steps and Discretionary Review

Local governments are required to comply with Goal 5 when a Post Acknowledge Plan Amendment (PAPA) allows a new use and the new use “could be” a conflicting use with a particular Goal 5

resource site on an acknowledged resource list.⁵ Deschutes County is amending several chapters of the Deschutes County Code (DCC) to treat religious institutions and assemblies and assemblies equally when compared to secular uses, consistent with the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Religious institutions and assemblies or assemblies, like community centers or fraternal organizations, have the potential to generate high levels of public activity, noise, and habitat alteration. As this new use could potentially impact Goal 5 resources, Deschutes County is conducting an ESEE Analysis to identify potential consequences and protections related to the amendments. Religious institutions and assemblies and assemblies will be added as a new permitted use (subject to Site Plan Review) in five zoning chapters. As shown below, only four of those zones contain Goal 5 resources and are being reviewed as part of this ESEE analysis.

Table 2: Zones Containing Goal 5 Resources

Contain Goal 5 Resources	Do Not Contain Goal 5 Resources
18.88 WA - Wildlife Area Combining Zone	18.108.055 SUTC – Sunriver Town Center
18.108.070 SURA – Sunriver Resort Marina	
18.108.080 SURG – Sunriver Resort Golf Course	
18.108.100 SURN – Sunriver Resort Nature Center	

ESEEs are meant to be analytical tools. The content of the ESEE is discretionary and is intended to be conducted by planning staff using existing information. An ESEE is not meant to focus exclusively on environmental impacts such as an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). Additionally, Goal 5 explains “the ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected”⁶. In utilizing this analytical tool, there are a few steps jurisdictions must include and address in accordance with OAR 660-023 – *Procedures and Requirements for Complying with Goal 5*:

1. Identify Conflicting Uses – Does the land use or activity negatively impact natural resources?
2. Determine Impact Area – What is the geographic extent to which land uses or activities adjacent to natural resources could negatively impact those resources?

⁵ OAR 660-023-0250(3)(b)

⁶ OAR 660-023-0040(1)

3. Analyze ESEE Consequences – What are the positive and negative consequences (both for development and natural resources) of a decision to fully protect natural resources, fully allow conflicting uses, or limit conflicting uses?
4. Develop a program – How and to what extent will the natural resources be protected based on the ESEE analysis?

A response to each of these steps throughout this report. The relevant page and chapter can be found in the table of contents.

Chapter 2: Deschutes County Goal 5 Inventory and Methodology

660-23-0030 – Inventory Goal 5 Resources

Stemming from periodic review, Deschutes County has adopted inventories for a variety of Goal 5 natural resources⁷. Some of these resources have mapped geographic boundaries such as Deer Winter Range, whereas others are described as being located in general areas – such as furbearer habitat in riparian corridors. The inventories were produced at a countywide scale, with additional detail for the Deschutes River and its tributaries through the Deschutes County/City of Bend River Study. County staff digitized these habitat boundaries into Geographic Information Systems (GIS) shapefiles in the 2000s for public consumption. The shapefiles were created from hard copy maps and descriptions found in the ordinances establishing the County's Goal 5 program, in consultation with Oregon Department of Fish and Wildlife. Maps provided in this document include inventoried habitat that spatially overlaps with the zones impacted by the proposed text amendments. The habitat areas include: riparian areas, antelope habitat, elk habitat, deer habitat, and deer winter range. Staff utilized the County's WA combining zone layers to determine the general extent of habitat for big game species as the Combining Zone was designed to cover a larger area than the habitat itself (Ordinance 92-046). Inventoried streams and rivers are shown on the map, as well as wetland and riparian areas. The Riparian Area associated with these water bodies is also the habitat area for fish, furbearers, waterfowl, and upland game birds (Ordinance 92-041, 94-007). As the proposed text amendments are legislative and do not impact any specific properties, staff did not review Goal 5 impacts on an individual parcel level basis. Instead staff identified the following potential resources sites in which the allowance of a new religious institution could potentially intersect with Goal 5 resources:

Sunriver Riparian Corridor⁸: Deschutes County is proposing to add religious institutions and assemblies and assemblies as an allowed use in the SURA, SURG, and SURN districts in the Urban Unincorporated Community of Sunriver. Ordinance 92-041, which established the County's Goal 5 inventory states *“the planned community of Sunriver is located in the migration corridor. The Mule Deer Track County Study found that the frequency of deer migration in the Sunriver area was low⁹”*. The area of Sunriver was not included in the associated maps for big game in Deschutes County, nor in the WA combining zone, as the likelihood of big game traveling through this urbanized area is highly unlikely. Properties in these zoning districts are located in relative proximity to the Deschutes River and its associated Goal 5 Riparian Area - consisting of land within 100 feet of the Deschutes River's Ordinary High Water Mark (OHWM), land within a wetland as depicted on the National Wetland Inventory Map, and land that is within the Flood Plain boundary associated with the Deschutes River. Ordinance 92-041 stated the following additional Goal 5 resources depend on riparian corridors for

⁷ Attachment 2

⁸ Attachment 1 Maps 1-3

⁹ Ordinance 92-041, Page 26

habitat: furbearer, waterfowl, and upland game bird habitat. As the extent of the habitat locations for these species are not detailed in a boundary description or on a map, staff assumes the species habitat is found entirely inside the Riparian Area boundary shown on the attached GIS maps.

Wildlife Area Combining Zone¹⁰: The WA combining zone was adopted as a protection measure for deer, elk, and antelope in Deschutes County. As an overlay zone, the mapped area conservatively identified typical habitat and migration areas and provides additional development requirements to ensure impacts to wildlife are properly mitigated alongside the underlying base zone (such as Rural Residential or Exclusive Farm Use) regulations. The zone encompasses the previously inventoried area for Deer Migration Range, Deer Winter Range, Significant Elk Habitat, and Antelope Range. The proposed amendments remove a prohibition on only three subzones of this Combining Zone area (deer winter range, significant elk habitat, and antelope range), these subzones are shown on the attached map. Religious institutions and assemblies and assemblies are already currently allowed in the Deer Migration Areas, so this subzone will not be impacted by the amendments and is shown on the map for context. The map excludes all public land (federal ownership) as these properties are not subject to Deschutes County land use regulations.

The Deschutes County Goal 5 inventory also includes scenic and open space sites such as Landscape Management Rivers and Streams, State Scenic Waterway and Federal Wild and Scenic Rivers, and Ecologically and Scientifically Significant Natural Areas –Little Deschutes River / Deschutes Confluence. As these are resources associated with mitigating visual impacts and do not impact development potential, they are not impacted by the proposed amendments and therefore are not reviewed in this document.

Maps of these corridors are found in Attachment 1 – Inventory Site Maps.

¹⁰ Attachment 1 Map 4

Chapter 3: Conflicting Use Analysis

660-023-0040(2): Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site.

Deschutes County is proposing to add religious institutions and assemblies and assemblies as an allowed use in the SURA, SURG, and SURN districts in the Urban Unincorporated Community of Sunriver, as well as in the WA combining zone. Religious institutions and assemblies and assemblies could be a conflicting use to significant Goal 5 resources as they generally concentrate groups of people to a specific area for a shared activity, and can generate traffic, and noise. Other uses that are allowed in the zoning districts are shown below:

Table 3: Allowed Uses

District	Outright Uses	Conditional Uses
SURA	<ul style="list-style-type: none"> • Marina • Park, playground and picnic and barbecue area • Recreational path • Restaurant, bar and cocktail lounge existing as of March 31, 1998 	No conditional uses.
SURG	<ul style="list-style-type: none"> • Golf course • Golf course accessory uses • Recreational path 	No conditional uses.
SURN	<ul style="list-style-type: none"> • Nature center • Recreational path • Observatory • A building or buildings each not exceeding 8,000 square feet of floor space which conform with the height regulations and lot requirements of the RN district and house any combination of: <ul style="list-style-type: none"> ○ Restaurant and food service commonly associated with and customarily appurtenant to the uses permitted outright in the RN district. ○ Retail sales, rental and repair services commonly associated with uses permitted outright in the RN district. 	No conditional uses.

WA	Uses permitted outright in underlying zone also permitted outright in WA Zone.	<p>Uses conditionally permitted in underlying zone also permitted conditionally in WA zone <u>excluding</u> the following</p> <p>For those in deer winter range, elk, antelope habitat:</p> <ul style="list-style-type: none"> • Golf course, not included in destination resort • Commercial Dog Kennel • Public/Private school • B&B • Dude Ranch • Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization • Timeshare unit • Vet clinic • Fishing lodge <p>Uses permitted in the Bend/La Pine Deer Migration Corridor only:</p> <ul style="list-style-type: none"> • Church • Public/Private school • Bed and breakfast inn • Playground recreation facility, or community center owned and operated by a government agency or a nonprofit community organization.
----	--	---

General Impacts of Conflicting Uses

The proposed amendments would add religious institutions and assemblies and assemblies where they have previously not been allowed, potentially adjacent to inventoried Goal 5 resources. As part of the ESEE review “a local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning”¹¹. In reviewing the proposed amendments, Deschutes County finds that the impacts for religious institutions and assemblies and assemblies in the Sunriver UUC and WA Zone are of such a similar nature that the impacts for the two areas may be reviewed together via the general impacts described below.

- *Concentration of Public Activity, Noise, and Light*

¹¹ OAR 660-023-0040(4)

Religious institutions and assemblies vary in the extent of their program, activity, and number of individuals participating. A common characteristic of religious institutions and assemblies is the assembly of members or participants during designated times. This concentration of individuals near Goal 5 resources may distress inventoried wildlife, as they seek to avoid noise and light from these activities – dependent on the hours of operation.

- *Habitat Removal*

Development of religious institutions and assemblies would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

- *Introduction of Invasive, Nonnative Plants*

In response to the application, Oregon Department of Fish and Wildlife submitted concerns regarding the spread of invasive, nonnative plants, finding that any ground disturbance would likely result in the spread of invasive, nonnative plants that could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development will likely result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

Greater detail on these potential conflicts and their consequences are provided below.

Chapter 4: Impact Areas

660-023-0040(3): Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

This step is discretionary and allows for the local jurisdiction to define which areas are the most vulnerable and/or most likely to be affected by the proposed amendments. The impact area for this ESEE analysis are properties that are within the WA, SURA, SURN, and/or SURG zones and that also contain an inventoried Goal 5 resource as described above, within its property boundaries. As this ESEE is not for any specific property, but instead reflects changes to the code generally, there is no individual property specific data.

Properties in this impact area can be found in Attachment 2 – *Impact Area Maps*

Impact Area Methodology

To understand the impact of the proposed amendments, an estimate of the number of parcels is shown in Table 4 below.

As a disclaimer, the WA combining zone number relates to all properties including federal land that are partially or entirely within the WA combining zone. As the WA zone is a combining zone, the underlying designation of each individual property will determine if religious institutions and assemblies are allowed. The proposed changes only remove the prohibition of religious institutions and assemblies for properties in the WA zone. For instance, many Forest Use zoned properties are also within the combining zone. As the underlying zone does not allow for a religious institution, the use will still not be allowed under the proposed text changes.

Table 4: Zoning of Non-Federal Properties in Impact Area

Zone	# of Private Properties
SURA	1
SURN	1
SURG	1
WA (Winter Range, Elk, Antelope)	2,839
TOTAL	2,842

Chapter 5: ESEE Analysis

660-023-0040(4): Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

Background

Deschutes County is choosing to conduct a single analysis for all resource sites as the impacts from allowance of religious institutions and assemblies and assemblies could have very similar impacts to both riparian areas and fish and wildlife that depend on the riparian for their habitat, and for big game including deer, elk, and antelope.

As described above, the potential impacts fall into four general areas:

- *Concentration of Public Activity, Noise, and Light*

Religious institutions and assemblies and assemblies vary in the extent of their program, activity, and number of individuals participating. A common characteristic of religious institutions and assemblies and assemblies is the assembly of members or participants during designated times. This concentration of individuals near Goal 5 resources causes distress to inventoried wildlife, as they seek to avoid noise and light from these activities – dependent on the hours of operation.

- *Habitat Removal*

Development of religious institutions and assemblies would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

- *Introduction of Invasive, Nonnative Plants*

In response to the application, ODFW submitted concerns regarding the spread of invasive, nonnative plants, finding that any ground disturbance would likely result in the spread of

invasive, nonnative plants that could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development will likely result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

This step is discretionary. The purpose of an ESEE analysis is to provide a qualitative exercise for local governments to weigh the positive and negative consequences of three scenarios in order to determine a preferred outcome. Governments may choose to use quantitative data as necessary, but are not required to gather new information or hire wildlife biologists, economists, sociologists, or energy consultants.

ESEE Scenario Descriptions

Scenario (A) – Allow the Conflicting Use

In this scenario, the local government may decide that a conflicting use should be allowed fully, without any restrictions, no matter the potential impacts on the inventory site(s). In this instance, the Goal 5 rule would require the government to determine the conflicting use is of such importance compared to the site that the use should be allowed without any protections or limitations. In choosing this scenario, the local government could still use other tools to protect the inventory that are currently in place.

Scenario (B) – Prohibit the Conflicting Use

In this scenario, the local government may decide that the inventory site is of such importance or the conflicting use has the potential to be so detrimental to the inventory site(s), that the conflicting use should be entirely prohibited.

Scenario (C) – Limit the Conflicting Use

In this scenario, the local government may decide that the inventory site and the conflicting use are both important when compared to each other, and the use should be allowed with limitations to balance the impacts to the inventory site(s).

Religious Institution ESEE Analysis

Scenario (A) Allow the Conflicting Use

In this scenario, Deschutes County would allow religious institutions and assemblies in the proposed zoning districts, without any additional requirements to protect the inventoried resources. Deschutes County is codifying existing authority under DCC 18.88.040(A) clarifying that the County may, to minimize impacts to wildlife habitat, include conditions of approval limiting the

duration, frequency, seasonality, and total number of all outdoor assemblies occurring in the WA Zone, whether or not such outdoor assemblies are public or private, secular or religious.

Economic Consequences:

Permitting religious institutions and assemblies would have positive consequences by allowing religious institutions and assemblies, which are typically non-profits, to establish a presence in certain areas of the rural county, where they presently are not allowed, and to use land and buildings for religious purposes. Religious institutions and assemblies also provide valuable contributions to communities in the areas of direct economic contributions, social services and community volunteering, education and civic skills training.

Permitting religious institutions and assemblies also alleviates the substantial risk that the County will be required to expend resources defending an unnecessary RLUIPA lawsuit and paying damages and fees to prevailing plaintiffs. In a previous land use decision, Deschutes County concluded that DCC 18.88.040(B)(3)'s prohibition on "religious institutions and assemblies" in the WA combining zone violates RLUIPA's Equal Terms provision because it allows nonreligious assemblies and institutions as conditional uses in the combining zone¹². LUBA and the Oregon Court of Appeals agreed. Deschutes County cannot treat religious assemblies in the WA combining zone on less favorable terms than non-religious assemblies with similar impacts on wildlife. Therefore, by not changing the code and remaining noncompliant with RLUIPA, the County could face litigation from parties seeking to establish a religious institution in the WA and Sunriver UUC zones.

Allowing religious institutions and assemblies could also have negative consequences based on previous testimony from ODFW¹³. ODFW estimates that hunting and wildlife viewing contributed more than \$50 million to the Deschutes County economy annually. Deschutes County is proposing to allow religious institutions and assemblies in areas of the Sunriver UUC that contain riparian areas and species that rely on the riparian area for habitat including fish, furbearers, upland game birds, and waterfowl. Allowing for religious institutions and assemblies in these zones could disturb fish and wildlife populations, which in turn could reduce income associated with wildlife viewing and hunting of these species.

The WA zone contains deer migration and deer winter range habitat areas, as well as elk and antelope habitat. In some parts of the county, mule deer populations may have declined up to 70% since 2000. As a result, ODFW made adjustments to hunting seasons so as not to cause additional declines through harvest. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range. By allowing for religious institutions and assemblies in the WA combining zone, there

¹² RLUIPA at 42 USC section 2000cc(b)(1) provides that: ""No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."

¹³ Attachment 3

is the potential for greater disturbance of deer populations that could reduce hunting and viewing opportunities.

Social Consequences:

Permitting religious institutions and assemblies, consistent with RLUIPA, would have positive consequences by preventing discrimination on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. It is also recognized that religious institutions and assemblies of all forms have long been recognized as central institutions within American life, helping to provide a sense of community and moral foundation. Quoting RLUIPA's co-sponsors, Senators Orrin Hatch and Edward Kennedy: "[t]he right to assembly for worship is at the very core of the free exercise of religion. Religious institutions and assemblies and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes." Those foundational values have been codified in numerous areas of both federal and state law, including the 1st Amendment of the U.S. Constitution (U.S. Const. amend. I), the aforementioned Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. § 2000cc et seq.), ORS 215.441, and ORS 215.283 (as interpreted by *Brentmar v. Jackson*, 321 Or 481 900 P2d 1030 (1995), *Lane County v. Land Conservation & Dev. Comm'n*, 325 Or 569, 942 P2d 278 (1997) ("subsection 1" uses – including "religious institutions and assemblies" – are generally allowed "as of right" even in an Exclusive Farm Use zone.))

It could also have negative consequences based on previous testimony from ODFW due to the potential loss of wildlife habitat. Many residents, advocacy organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region's rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, incrementally, Deschutes County's rural character and quality of life. The proposed amendments could have negative consequences due to increased human presence and infrastructure near the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

Environmental Consequences:

In this scenario, religious institutions and assemblies would be allowed without additional requirements or regulations. Deschutes County codifying existing authority with a provision under DCC 18.88.040(A) that clarifies that the County may, to minimize impacts to wildlife habitat, include conditions of approval limiting the duration, frequency, seasonality, and total number of all outdoor assemblies occurring in the WA Zone, whether or not such outdoor assemblies are public or private, secular or religious. As stated previously, the addition of religious institutions and assemblies where they previously were not allowed could present negative impacts as they have the potential to concentrate groups of people which could increase noise and light near fish and wildlife habitats,

and in turn cause distress to inventoried Goal 5 species. The term religious institution is intended to be inclusive of all types of assembly and worship, so it is difficult to provide data related to average size of assemblies, traffic counts, and the extent of their activity.

Development of any religious institution would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat. Permitting religious institutions and assemblies could create negative impacts to designated habitat for deer winter range, elk habitat and antelope range in WA combining zones. Based on testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range

As previously stated, the following Goal 5 protections established during the creation of the initial inventory would remain in place:

1. Setback Protections - 100-foot structural setback from the ordinary high water mark of rivers or streams.
2. Scenic Protections – development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections – prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections - Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by ODFW.
5. Flood Plain Protections - All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain obtain a conditional use permit.
6. Additional Combining Zone Requirements: Winter Deer Range, Antelope Range, Elk Habitat, Deer Migration Corridors, Sage Grouse Habitat Area, and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and larger minimum lot sizes to prevent impact to sensitive species and habitat.

Existing protections would prevent riparian areas from being developed when religious institutions and assemblies are established in the Sunriver UUC. Development within the Sunriver UUC is urban. As the existing Goal 5 measures in place today protect riparian areas and the fish and wildlife within that habitat area, the addition of religious institutions and assemblies to these zones will be neutral.

Energy Consequences:

As the Sunriver UUC is urban and contains community operated utility services (sewer and water), access to existing electric and natural gas connections, and a maintained road system – the addition of a religious institution use is unlikely to cause any major energy consequences. Depending on the extent and reach of the religious institution’s participants, there could be additional Vehicle Miles Travelled and greater congestion on county owned roads from individuals travelling to the area from other regions of Deschutes County.

A potential negative consequence of the proposed amendments in the WA combining zone would be additional development in rural Deschutes County. Depending on the size of the religious institution and the scale of their activity, the institution would require additional infrastructure such as a septic tank and drainfield, road access or a driveway, electricity, and a well, in addition to energy to develop and operate. Depending on the location of the structure and the radius in which participants travel for religious institution activities, the addition of this use could lead to additional Vehicle Miles Traveled and greater congestion on county owned roads.

Scenario (B) Prohibit the Conflicting Use

In this scenario, Deschutes County would not change any of the current regulations surrounding religious institutions and assemblies in the WA, SURA, SURN, and SURG zones Existing regulations would continue to prohibit the use.

Economic Consequences:

Prohibiting religious institutions and assemblies would have negative economic consequences, as it prevents religious institutions and assemblies from using their land and building for religious purposes. This would place additional cost on individuals seeking to establish religious institutions and assemblies as they would continue to be limited in the area in which the use allowed. Additionally, it could place cost on individuals seeking to become a member of a religious institution as they may need to travel further to attend services and activities outside of a reasonable radius.

Additionally, continuing to prohibit the use could subject Deschutes County to substantial risk of losing federal lawsuits for violating RLUIPA. The cost of such lawsuits would include legal fees and the potential need to pay for damages resulting from the violations.

It could also have neutral consequences based on testimony from ODFW. Prohibiting religious institutions and assemblies could contribute to stabilizing mule deer populations, thereby maintaining economic benefits from wildlife viewing or hunting. Wildlife viewing, hunting, and fishing experiences in Deschutes County is a major economic asset to the region. Continuing with the current regulations would minimize further habitat fragmentation and help maintain wildlife viewing, hunting, and fishing revenues in Deschutes County.

Social Consequences:

Prohibiting religious institutions and assemblies would have negative consequences because it could be viewed as discriminating against religious institutions and assemblies or other religious assemblies compared to similar secular uses. The core purpose of RLUIPA is to ensure that individuals maintain the right to religious expression by requiring jurisdictions to treat religious and secular institutions on equal terms during the land use review process. This would impact individuals and entire religious communities who feel they are not being fairly treated and are limited in their religious practice. It could also impact the quality of life for rural residents as they may have to travel greater distances or practice their religious rights outside of an organized assembly.

It could also have positive consequences. Many residents express their appreciation for undisturbed landscapes because they contribute to Deschutes County's rural character and quality of life. Prohibiting religious institutions and assemblies, which generate activity, noise, and light would continue to limit disturbance to existing fish and wildlife habitats.

Environmental Consequences:

Within the Sunriver UUC – there are a few properties that contain a Goal 5 Riparian Area which is also the habitat for Goal 5 inventoried waterfowl, upland game bird, furbearers, and fish. The WA combining zone contains Goal 5 big game elk, antelope, and deer habitat. By prohibiting religious institutions and assemblies and maintaining the status quo, these species will continue to be protected against habitat fragmentation and distress from concentrations of religious activity. The environmental consequences are therefore neutral.

Energy Consequences:

Energy consumption would have neutral consequences as this scenario maintains the status quo. Development associated with religious institutions and assemblies may be displaced to other areas of rural Deschutes County, which would still have demands on utilities.

Scenario (C) Limit the Conflicting Use

In this scenario, Deschutes County would allow religious institutions and assemblies in the proposed zoning districts, with additional limitations to protect the inventoried resources, outside of existing protections.

Economic Consequences:

Permitting religious institutions and assemblies would have positive consequences by allowing religious institutions and assemblies, which are non-profits, to establish a presence in certain areas of the rural county, where they presently not allowed. Religious institutions and assemblies also

provide valuable contributions to communities in the areas of direct economic contributions, social services and community volunteering, education and civic skills training. Lastly, permitting religious institutions and assemblies reduces the risk that the County will be required to expend resources defending RLUIPA lawsuits or paying damages resulting thereof. However, imposing additional limits on religious institutions and assemblies and assemblies may nevertheless expose the County to similar federal lawsuits pursuant to the "Substantial Burden" prong of RLUIPA.

In a previous land use decision, Deschutes County concluded that DCC 18.88.040(B)(3)'s prohibition on "religious institutions and assemblies" in the WA combining zone violates RLUIPA's Equal Terms provision because it allows nonreligious assemblies and institutions as conditional uses in the combining zone¹⁴. LUBA and the Oregon Court of Appeals agreed. Deschutes County cannot treat religious assemblies in the WA combining zone on less favorable terms than non-religious assemblies with similar impacts on wildlife. Therefore, by not changing the code and continuing to not comply with RLUIPA, the County could face litigation from parties seeking to establish religious institutions and assemblies in the WA and Sunriver UUC zones.

Compared to scenario (a) in which the use would be allowed outright, the addition of limitations for the use could lessen the impact on fish and wildlife habitats by, for example, limiting square footage, limiting hours or operation, or by requiring habitat restoration measures. This could positively impact the hunting and wildlife viewing economy in Central Oregon, valued at \$50 million annually. While such measures could lessen impacts, the overall burden caused by allowing these more-intensive uses nevertheless may still overall impact wildlife and thereby impact revenue generated from the recreation economy.

In comparison to scenario (a), which would allow the use outright, Deschutes County finds that this scenario would provide a set of limitations to reduce the amount of impacts, even if those impacts still exist.

Social Consequences:

The positive social consequences in this scenario are very similar to scenario (a). Permitting religious institutions and assemblies, consistent with RLUIPA, would have positive consequences by preventing discrimination on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. It is also recognized that religious institutions and assemblies of all forms have long been recognized as important social organizations, helping to provide a sense of community and moral foundation.

This scenario would add additional limitations for the establishment of a religious institution by, for example, limiting square footage, limiting hours of operation, or by requiring habitat restoration

¹⁴ RLUIPA at 42 USC section 2000cc(b)(1) provides that: "'No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."

measures. Even if adding these limitations (or others), there is still the potential that some religious institutions and assemblies may be treated unfairly compared to secular uses. Depending on the facts and circumstances of any quasi-judicial application, these limitations could prevent religious institutions and assemblies and their members from being able to fully express their religious rights. Thus, a negative consequence of this scenario would be the continued unequal treatment of religious and secular uses, and/or continued RLUIPA compliance concerns.

It could also have negative consequences based on previous testimony from ODFW due to the potential loss of wildlife habitat stemming from the possible removal of habitat areas and construction of structures and their associated human presence. Many residents, advocacy organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region's rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, incrementally, Deschutes County's rural character and quality of life. The proposed amendments could have negative consequences due to increased human presence and infrastructure near or within the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

Environmental Consequences:

The addition of religious institutions and assemblies where they previously were not allowed could present negative consequences as they have the potential to concentrate groups of people which could increase activity, noise and light near fish and wildlife habitats, and in turn cause distress to inventoried Goal 5 species. The term religious institution is intended to be inclusive of all types of assembly and worship, so it is difficult to provide data related to average size of assemblies, traffic counts, and the extent of their activity.

Development of any religious institution would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by fish and wildlife species, outside of their primary habitat. Permitting religious institutions and assemblies could result in further negative impacts to designated habitat for deer winter range, elk habitat and antelope range in WA combining zones. Based on testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range

Existing protections in place today (shown above) would prevent riparian areas from being developed when religious institutions and assemblies are established in the Sunriver UUC.

Development within the Sunriver UUC is urban in nature and the establishment of religious institutions and assemblies would likely be neutral.

By limiting the use and only allowing a certain square footage, limiting hours of operation, or by requiring habitat restoration measures, the negative environmental consequences associated with religious institutions and assemblies could be mitigated to a certain extent. A caveat in this scenario, would be any limitations for religious institutions and assemblies would need to be objective as to not further discriminate specific types of religious institutions and assemblies and types of assemblies. In implementing a "one-size-fits-all" approach, an opportunity could be missed to protect site specific Goal 5 resources.

Energy Consequences:

The energy consequences in this scenario are the same as in scenario (a), although a limitation on the square footage of a building and the hours of operation could decrease the amount of energy used as part of the operation of the religious institution.

Chapter 6: ESEE Decision

660-023-0040(5): Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

The graphic below is meant to be a simplified representation to balance each of the ESEE factors. As stated in the ESEE analysis, there are a variety of positive, negative, and neutral consequences associated with each scenario. Deschutes County finds that the issue of preserving one's right to religious practices in accordance with RLUIPA is both a social and economic issue that outweighs the other ESEE consequences. The County considered allowing the use with limitations such as hours of operation, square footage maximums, or requiring restoration measures, but this practice could still be seen as discrimination or unequal treatment of religious institutions and assemblies when compared to other uses allowed in the zoning districts. Therefore the County is choosing scenario (c) which will allow the use fully notwithstanding the possible impacts on the resource sites.

Table 5: ESEE Factors

ESEE Factors	Support habitat functions (Environmental, economic, social)	Preserves Right to religious practice (Social, economic)	Support Recreational Economy (Economic, Social)	Consistency of Land Use Regulations (Social)	Preserves Rural Character (Social)	Transportation (Energy)
Prohibit conflict (No code change)	0	-	0	-	0	0
Allow conflict Allow religious institutions & assemblies with no add'l reqs	-	+	-	+	-	-
Limit conflict Allow religious institutions & assemblies with add'l limitations	-	0	-	-	-	0

Chapter 7: Program to Achieve Goal 5

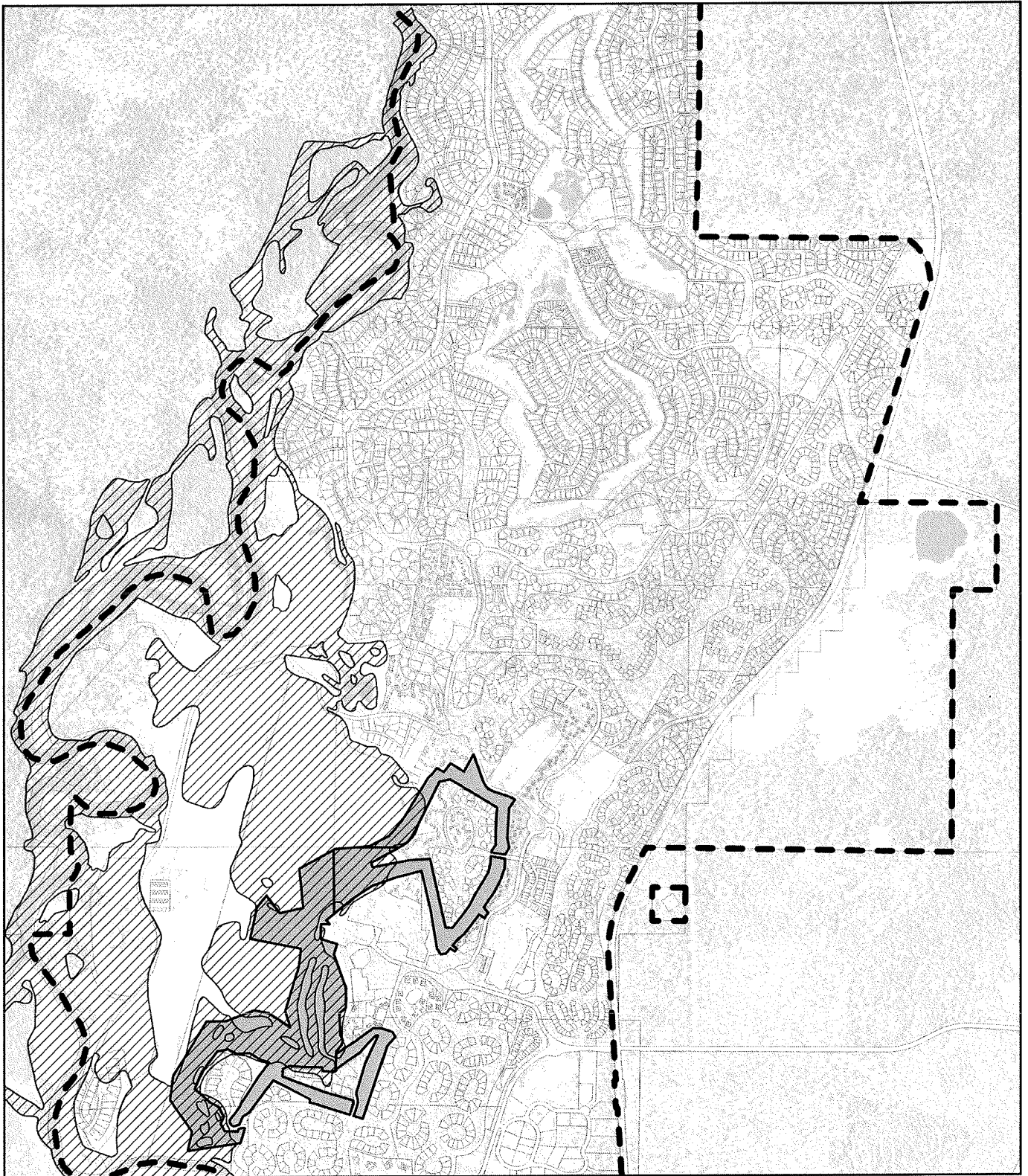
660-023-0050(1): For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).





660-023-0050(2): When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;

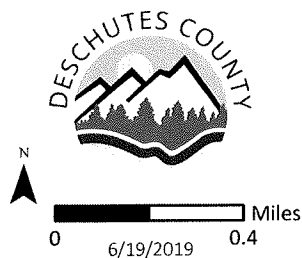
(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or ...

Deschutes County has determined that allowing religious institutions and assemblies within the SURA, SURN and SURG zones in the Urban Unincorporated Community of Sunriver, and within the Wildlife Area Combining Zone should be allowed fully, notwithstanding the possible impacts on the inventoried resources. The implementing measures do not include alternative, discretionary procedures for compliance.



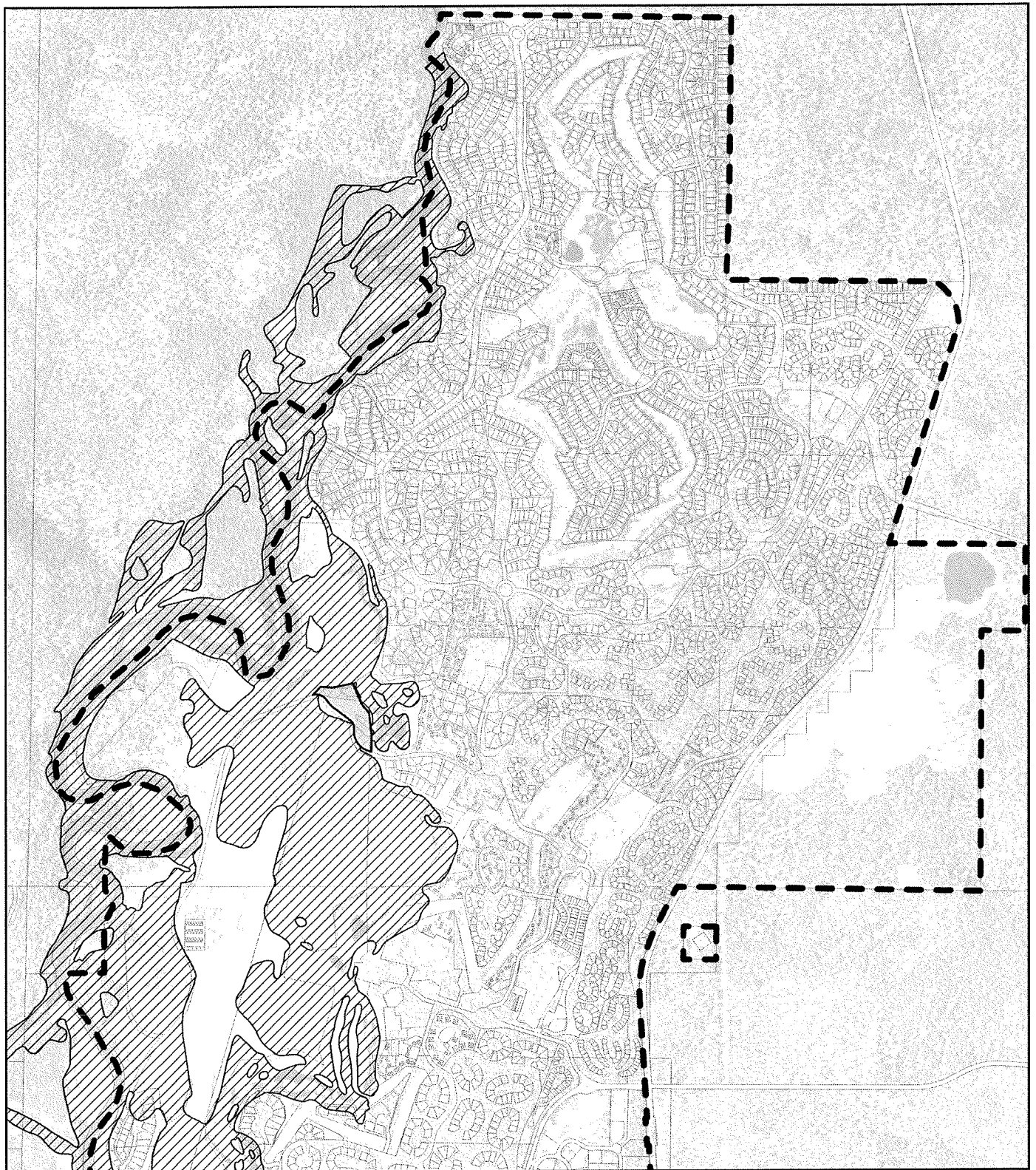
-  Floodplain
-  Sunriver Resort Golf Course
-  Potentially Impacted Taxlots
-  Sunriver Community





Attachment 1, Map 1



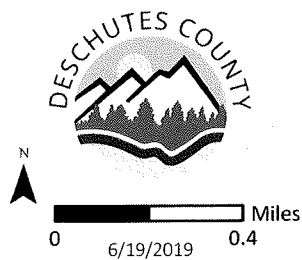
**Religious Institutions Review
SURG - Zoning**

The SURG Zoning in the Sunriver Community would be impacted by the Floodplain Zoning of the Goal 5 Resource.



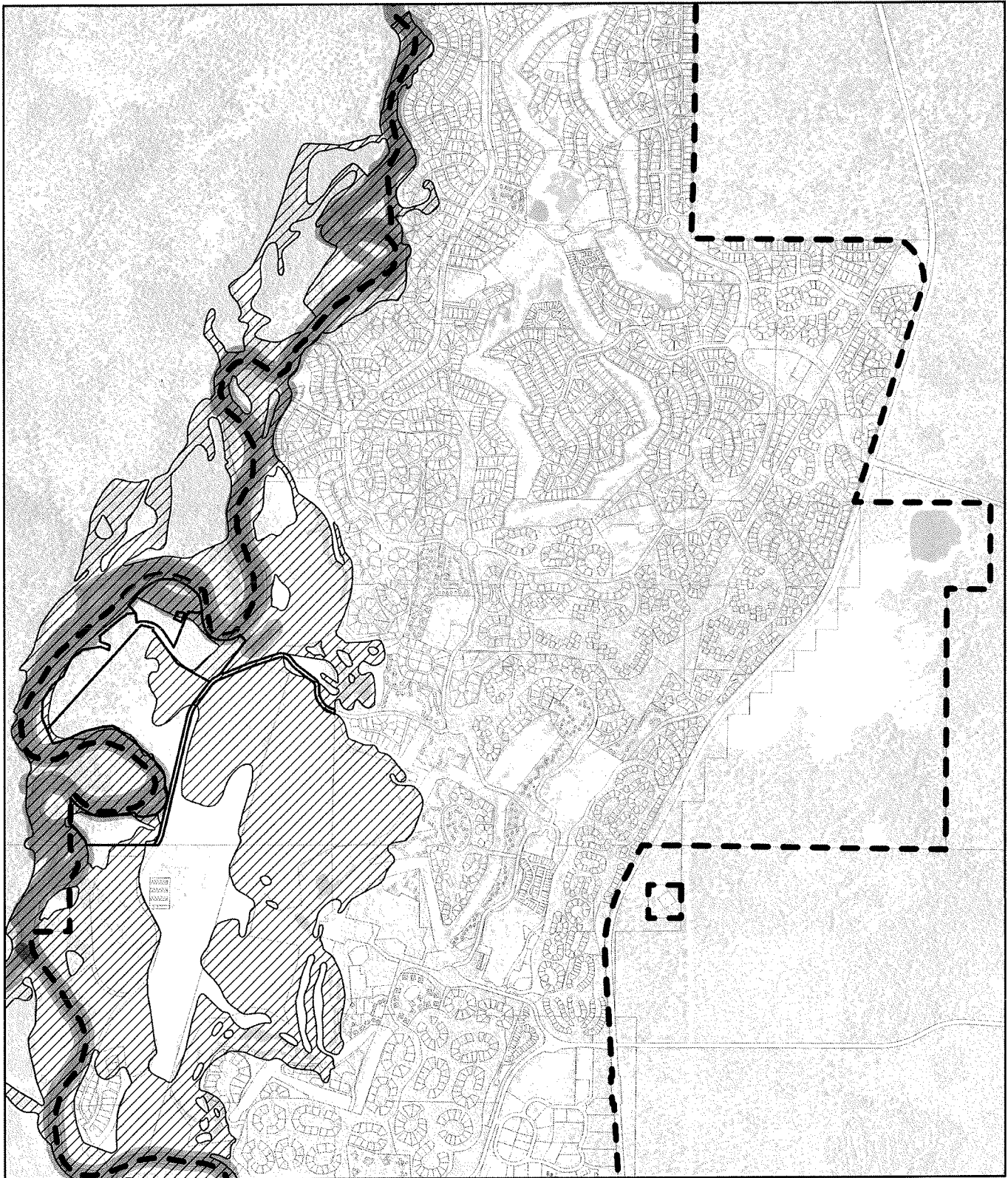
-  Floodplain
-  Sunriver Resort Nature Center
-  Potentially Impacted Taxlots
-  Sunriver Community






Attachment 1, Map 2

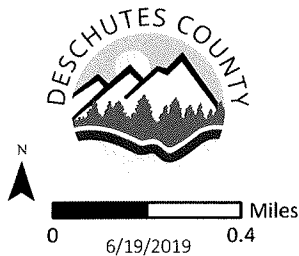


**Religious Institutions Review
SURN - Zoning**

The SURN Zoning in the Sunriver Community would be impacted by the Floodplain Zoning of the Goal 5 Resource.



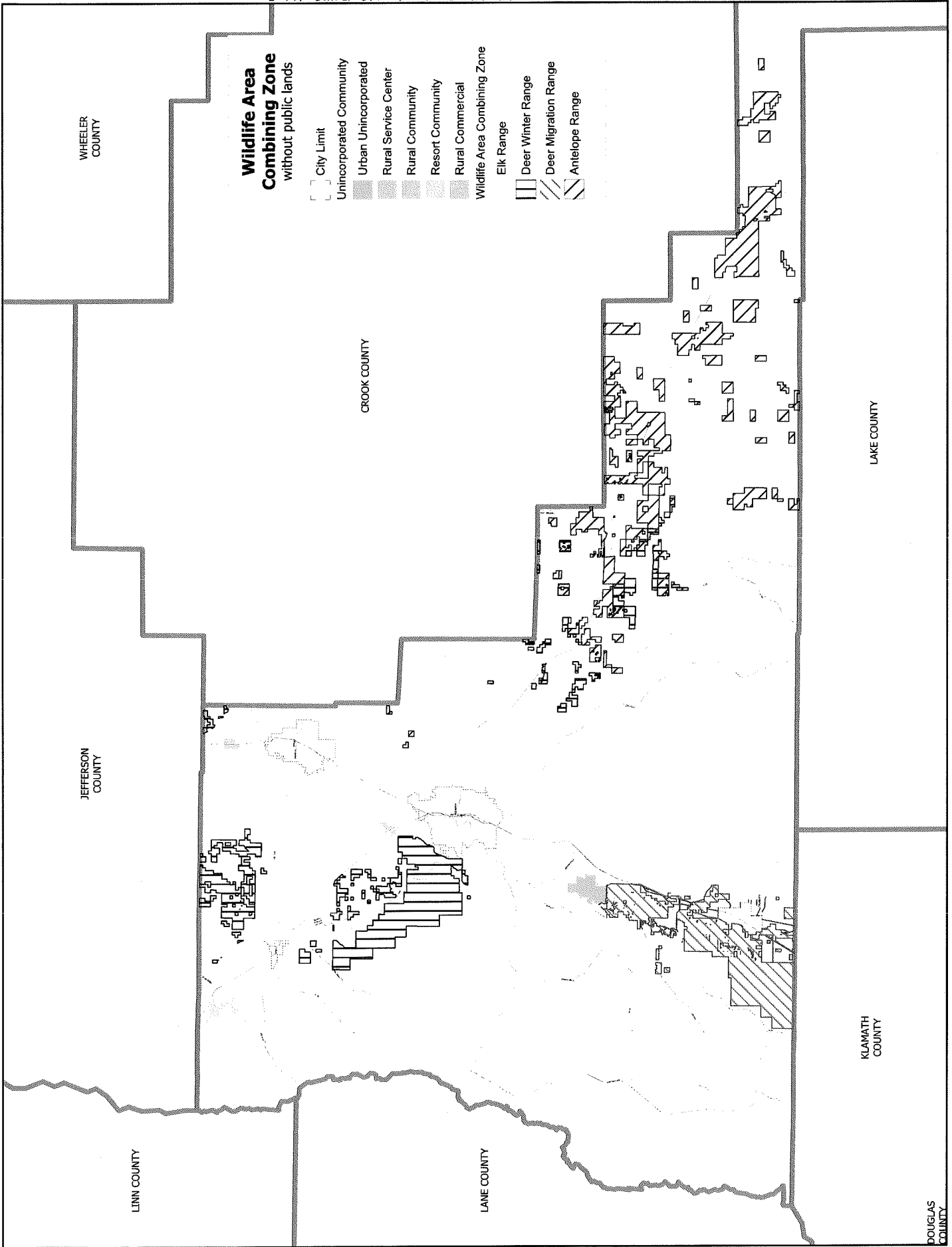
-  Floodplain
-  Wetland Riparian
-  Sunriver Resort Marina
-  Potentially Impacted Taxlots
-  Sunriver Community



Religious Institutions Review SURA - Zoning

The SURA Zoning in the Sunriver Community would be impacted by the Floodplain Zoning of the Goal 5 Resource.

Attachment 1, Map 3



Attachment 2 - Goal 5 Matrix

Deschutes County Significant Goal 5 Resources (Excluding Historic/Aggregate Resources)

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p>Fish Habitat (Inventory – Ord. No. 92-041, page 18; creeks, rivers and lakes)</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Removal of riparian vegetation • Fill and removal activities within the bed and banks of streams or wetlands • Hydroelectric facilities • Water regulation • Rural residential development <ul style="list-style-type: none"> ○ Impermeable surfaces ○ Sewage runoff ○ Disruption of natural hydroelectric patterns ○ Depletion of water table ○ Erosion. 	<p>Flood Plain zone recognized as program to achieve the goal to conserve fish habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, 100' setback from OHW, conservation easements and restrictions on boats and docks.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p>Deer Winter Range (Inventory – Ord. No. 92-041, page 22; Metolius, Tumalo, North Paulina, and Grizzly ranges identified by ODFW)</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Dwellings • Roads • Dogs • Activities that cause deterioration of forage quality and quantity or cover. • Fences which impede safe passage • Destination Resorts 	<p>Flood Plain zone recognized as a program to achieve the goal to protect deer winter range.</p> <p>Others include Wildlife Area Combining Zone. Requires 40-acre minimum lot size for all new residential land divisions. Underlying zoning in most of the deer winter range is: EFU, Forest Use and Flood plain. These zones provide for large lot sizes and limit uses that are not compatible with farm or forest zones.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>

<p>Furbearer Habitat (Inventory – Ord. No. 92-041 – page 65; ODFW has not identified any specific habitat sites other than riparian and wetland areas that are critical for the listed species. Chapter 6.7-6.8 of County/City of Bend River Study notes fisher, wolverine, kit fox, sea otter, and ringtailed cat are protected wildlife although most common are mink, beaver, river otter, and bobcat.)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Conflicts between furbearers and other land uses are minimal in the county. • Activities or development that degrade or destroy habitat or disturb animals causing them to relocate • Habitat includes brushy streams, rivers, lakes, wetlands, forest, and open sagebrush/grassland areas. Most sensitive area is riparian habitat. 	<p>Furbearer habitat is adequately protected by the existing EFU and forest zoning and the provisions to protect farm use and forest zoning and the provisions to protect wetlands and riparian areas to achieve the goal to protect furbearers.</p> <p>The farm and forest zones require large minimum lot sizes and many uses are permitted only as conditional uses. The measures to protect riparian and wetland habitat are detailed in this plan in the Riparian and Wetland Habitat section.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p>Elk Habitat (Inventory – Ord. No. 92-041 – page 32; identified by USFS and ODFW)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Increased residential densities in habitat areas • Increased human disturbance such as: new roads, dogs, xc skiing and snowmobiling. • Land use that necessitates removal of large amount of vegetative cover. 	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the elk habitat.</p> <p>It was amended to require a 160 acre minimum lot size for areas identified as significant elk habitat. Siting standards are required to minimize conflicts of residences with habitat protection. Underlying zoning in the elk habitat areas is either flood plain, forest, or open space and conservation. (Some lands are zoned RR10, including lots that are split zoned with flood plain. They are already parcelized, preventing future land divisions).</p> <p>These resource zones restrict high density residential development and prohibit industrial and commercial uses.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>

<p>Waterfowl Habitat (Inventory – Ord. No. 92-041 – page 56; includes all rivers, streams, lakes and perennial wetlands and ponds identified on the 1990 US Fish and Wildlife Wetland Inventory Maps; ODFW provided lists of all bird species; ; Chapter 6.6 of County/City of Bend River Study notes swan, ducks, and geese as important waterfowl)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Resort and vacation home development • Human activity associated with recreation along rivers and lakes • Timber-cutting around sensitive habitat • Fill and removal of material in wetlands and within the bed and banks of rivers and streams. • Removal of riparian vegetation. 	<p>Floodplain zone recognized as program to achieve the goal to conserve waterfowl habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, rimrock setbacks, 100' setback from OHW, conservation easements, restrictions on boats and docks, landscape management, State and federal scenic water regulations. In addition, the forest and EFU zones require large minimum lot size which limits the potential density of development in the areas adjacent many of the rivers, streams wetlands and ponds used for waterfowl habitat.</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042- 92-045, 92-046</p>
<p>Upland Game Bird Habitat (Inventory – Ord. No. 92-041 – page 60; ODFW did not identify critical habitat for any of the upland game species except for the sage grouse; habitat for upland game birds is dispersed throughout the county in riparian, forest, agricultural and rangeland areas. Chapter 6.5 of County/City of Bend River Study identifies protected game.)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Removal of riparian vegetation • Removal of agricultural fence row and woodlots. • Housing development that removes seed-producing plants in brushy areas. • Removal of agricultural land from production (pheasant and quail impacted) • Urban sprawl • Road construction • Industrial development • Other land clearing activities. 	<p>For all of the upland game birds except sage grouse, the habitat is adequately protected by the existing EFU and forest zoning and the provisions to protect wetlands and riparian areas to achieve the goal of protecting upland game birds.</p> <p>County provisions to protect riparian areas and wetlands protect one of the most significant components of upland game habitat.</p> <p>Note: conflicts with sage grouse are limited by EFU zoning with a 320 acre minimum parcel size. Sensitive Bird and Mammal Combining Zone pertaining to sage grouse and leks have been repealed due to LCDC enacted rules in OAR 660, Division 23.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>

<p>UPDATED - Inventory – Ord. No. 94-004 –pages 156-201.</p>	<p>No.</p>	<p>See above.</p>	<p>Habitat areas for Upland Game Bird Habitat, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 4 with the ESEE Analysis and inventory for upland game bird habitat.</p> <p>Conflicts with sage grouse are reduced by the limitations on uses in the EFU and flood Plain zone, by the 320 acre minimum lot size and predominance of BLM.</p> <p>Note above still applies.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>
<p>Wetlands and Riparian Areas (Inventory – Ord. No. 92-041 – page 73; identified on USFWS NWI)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Fill and removal of material <ul style="list-style-type: none"> ○ Specifically that which could cause reduction in size or quality or function of a wetland, or cause destruction or degradation of riparian habitat/vegetation. • Structural development in wetlands/riparian areas that reduce habitat and use of structure from harassment or disturbance of wildlife. • Cutting of riparian vegetation that: <ul style="list-style-type: none"> ○ Removes shade for streams, eliminates habitat for waterfowl, furbearers, and nongame birds or causes erosion. 	<p>Floodplain zone recognized as program to achieve the goal to conserve wetland and riparian habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, 100' setback from OHW, conservation easements, restrictions on boats and docks, and landscape management</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>

<p>UPDATED – Riparian inventory – Ord. No. 94-007; Significant riparian habitat is located in three areas:</p> <p>Area within 100' of OHW of an inventoried stream or river;</p> <p>Area adjacent to an inventoried river or stream and located within a flood plain mapped by FEMA and zoned flood plain by the county (Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Indian Ford Creek, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River</p> <p>Area adjacent to a river or stream and inventoried as a wetland on the NWI</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Location of septic systems – pollution of ground and surface water (dependent on soil characteristics). • Structural development in riparian areas causing harassment or disturbance of wildlife. • Recreational use of riparian area that destruct vegetation and soil composition including: <ul style="list-style-type: none"> ○ Boat landing areas ○ Formal/informal trails ○ Camping areas. 	<p>Riparian Areas inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit A.</p> <p>New parcels meeting the minimum lot size in the resource zones (EFU, Forest, non-exception flood plain) will not cause an increase in residential density that would conflict with riparian habitat values.</p> <p>In RR10, MUA-10, and Flood Plain zone found adjacent to inventoried riparian areas, the creation of new 10 acre parcels would not significantly increase the overall density of residential use adjacent to riparian areas because the areas where new parcels could be created, with the exception of Tumalo Creek, are already divided into lots considerably smaller than 10 acres.</p> <p>Program to achieve Goal 5 for Riparian Habitat: fill and removal regulations to protect wetlands, 100' setback from OHW, Flood plain zone (regulates docks too), Landscape Management zone, Conservation easements, State Scenic Waterway</p>	<p>Ordinance Nos. 94-007</p>
---	--------------------	--	--	------------------------------

<p>UPDATED – Wetland Inventory – Ord. No. 94-007, Exhibit B – inventory is NWI (Ord. No. 92-045)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Increased residential density in or adjacent to riparian areas. • Fill and removal of material and vegetation which could cause reduction in size, quality, or function of a wetland. • Structural development in wetlands that cause reduction in habitat, or use of structure that could cause conflicts such as harassment/disturbance of wildlife dependent on the habitat. • Draining wetlands for agriculture/other purpose that destroys the hydrological function of the wetland and alters wildlife habitat. • Cutting wetland vegetation adjacent to streams which could remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species and can also increase the potential for erosion or bank instability in riparian areas. 	<p>Wetlands Inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit B, Wetlands.</p> <p>Program to achieve Goal 5 for Wetland Habitat:</p> <ul style="list-style-type: none"> • Fill and removal regulations to protect wetlands • 100' setback from OHW • Flood plain zone (regulates docks too) <p>DSL Removal / Fill law</p>	<p>Ordinance Nos. 94-007</p>
---	--------------------	---	--	------------------------------

<p>Ecologically and Scientifically Significant Natural Areas * Little Deschutes River / Deschutes River Confluence (Inventory – Ord. No. 92-052, Exhibit B, Page 1; identified by Oregon Natural Heritage Program); Analysis of Pringle Falls and Horse Ridge Research Areas, West Hampton Butte and Davis Lakes excluded b/c they're on federal land and/or not related to flood plains.</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Resort and vacation home development • Recreational uses • Livestock grazing • Fill and removal in wetlands. 	<p>Programs for resource protection include the zoning of the property, the provisions of the flood plain, wetlands and the river corridor.</p> <p>The implementing measures which protect and regulate development in the confluence area are: EFU zoning, Flood Plain zoning, conservation easements, and fill and removal.</p> <p>The confluence area is located in the undeveloped open space area of the Sunriver development (Crosswater). 80% of the property is retained as open space.</p> <p>Today, zoning is Flood Plain and Forest Use</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>
<p>Landscape Management Rivers and Streams (Inventory – Ord. No. 92-052, Exhibit C, Page 3; identified by state and federal wild and scenic corridors; and within 660' of OHW of portions of Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Spring river, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River not on the state or federal scenic designations)</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • Land management activities that result in habitat loss or development within river or stream corridors which would excessively interfere with the scenic or natural appearance of the landscape as seen from the river or stream or alteration of existing natural landscape by removal of vegetative cover. 	<p>Program for resource protection includes: floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, , conservation easements, restrictions on boats and docks, and landscape management</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>

<p>State Scenic Waterways and Federal Wild and Scenic Rivers (Inventory – Ord. No. 92-052, Exhibit E, Page 1;</p>	<p>Yes.</p>	<ul style="list-style-type: none"> • See County / City of Bend River Study and 1986 River Study Staff Report. Both referenced in Ord. 92-005, Exhibit E. 	<p>Program for resource protection includes: floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, , conservation easements, restrictions on boats and docks, and landscape management</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>
<p>Deer Migration Corridor (Inventory – Ord. No. 92-041, page 26; Bend-La Pine migration corridor identified by ODFW)</p>	<p>No.</p>	<ul style="list-style-type: none"> • Dwellings • Roads • Dogs • Fences which impede safe passage 	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the deer migration corridor. It was amended to require cluster development for all land divisions in the RR-10 zone in the Bend/La Pine migration corridor (92-042). A 20 acre parcel is the minimum size required for a cluster development. Siting and fencing standards also apply in the deer migration corridor.</p> <p>Flood Plain Zone not an identified program, but described as a beneficial in limiting impacts due to development requirements.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>
<p>Antelope Habitat (Inventory – Ord. No. 92-041 – page 38; identified by ODFW)</p>	<p>No.</p>	<ul style="list-style-type: none"> • Land use or development activities associated with human activity which would result in the loss of habitat, and animal harassment and disturbance 	<p>To achieve the goal to conserve antelope habitat, uses conflicting with antelope habitat are limited to the Wildlife Area Combining Zone. In antelope range, the minimum lot size is 320 acres. Except for rural service centers, the antelope habitat is zoned EFU or F1.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>

<p>Habitat for Sensitive Birds (Inventory – Ord. No. 92-041 – page 41 and Table 5; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases).</p> <p>The area required for each nest site varies between species.</p>	<p>No.</p>	<ul style="list-style-type: none"> • Surface mining • Logging operations • Air strips • Residential use, • Recreation facilities, • Roads • Any other activity which would disturb the nesting birds (i.e. intensive recreational use or removal of trees or vegetation) 	<p>Nest sites are found in forest, EFU and Open Space and Conservation zones. The Sensitive Bird and Mammal Combining Zone achieves the goal to protect sensitive bird sites.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>
<p>(UPDATED - Inventory – Ord. No. 94-004 –pages 3 to 140 Site specific ESEE analysis and decisions follow each site.</p>	<p>No.</p>	<p>See above.</p>	<p>Habitat areas for sensitive birds of the Fish and Wildlife Element, adopted in No. 92-041 is repealed and replaced by inventories in Exhibit 1. Area required around each nest site needed to protect the nest from conflict varies between species. It's called "sensitive habitat area."</p> <p>Note: Northern bald eagle, osprey, golden eagle, prairie falcon and great blue heron rookeries are located on federal land. Classified as "2A" Goal 5 Resources. Great Grey owl site no longer exists. Some bald eagle, golden eagle sites are controlled by the Sensitive Bird and Mammal Combining Zone.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>

<p>Habitat Areas for Townsend's Big-Eared Bats (Inventory – Ord. No. 92-041 – page 69; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases)</p>	<p>No.</p>	<ul style="list-style-type: none"> • Surface mining • Logging operations • Air strips • Recreation facilities including golf courses and destination resorts • Roads 	<p>Caves located in EFU zones. Program to achieve the goal is Sensitive Bird and Mammal Combining Zone</p>	<p>Ordinance No. 92-041 and 042</p>
<p>UPDATED - Inventory – Ord. No. 94-004 –pages 140 to 155 Site specific ESEE analysis and decisions follow each site.</p>	<p>No.</p>	<p>See above.</p>	<p>Habitat areas for Townsend Bats, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 2. The ESEE for Townsend's big-eared bats is amended for additional bat sites in Exhibit 3.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>
<p>Lakes and Reservoirs (Inventory – Ord. No. 92-052, Exhibit C, Page 10; includes Upper Tumalo Reservoir; remaining are on federal land</p>	<p>No.</p>	<ul style="list-style-type: none"> • Development which would cause a loss of open space or a decrease in the aesthetic and scenic resources • land management activities, resulting in the removal of natural vegetation which provides wildlife habitat and scenic value. 	<p>Conflicting uses around Tumalo Reservoir are specifically limited by Title 18.48, Open Space Conservation Zone and a 100' setback for any structure from OHW</p>	<p>Ordinance No. 91-020</p>

<p>Wilderness Areas, Areas of Special Concern, Energy Sources (Ord. No. 92-005), and Groundwater Resources (Ord. No. 94-003) not analyzed because they're on federal land or don't relate to flood plans.</p>	<p>No.</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
--	------------	------------	------------	------------



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281

Attachment 3 - Oregon Department of Fish and Wildlife 2017 Testimony

September 22, 2017

Deschutes County Community Development Department
P.O. Box 6005
117 NW Lafayette Ave
Bend, OR 97708

Re: Planning Division File 247-17-000702-TA/247-17-000703-PA

The purpose of this letter is to provide Oregon Department of Fish and Wildlife (Department) comments on the proposed Deschutes County Community Development Department (CDD) amendment to the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, to permit churches in the Wildlife Area Combining Zone (WA Zone).

According to Deschutes County Code 18.88, the purpose of the WA Zone is “to conserve important wildlife areas in Deschutes County; to protect an important environmental, social and economic element of the area; and to permit development compatible with the protection of the wildlife resource.” Much of the WA Zone is meant to conserve winter ranges for deer, elk and pronghorn. These are areas where wildlife congregate to conserve energy when food resources are scarce and temperatures are often below freezing making them particularly vulnerable to human disturbance.

The Department is mandated by State Statute to manage fish and wildlife resources to prevent serious depletion of indigenous species and to provide optimum recreational and aesthetic benefits for present and future generations of the citizens of Oregon (ORS 496.012). This objective can only be realized in concert with land use provisions that benefit wildlife resources such as the Goal 5 planning process that created the WA Zone. The maintenance of adequate winter range is crucial to the persistence of big game populations which provide local ecological and economic value. The winter range protected under the WA Zone in Deschutes County is coming under increasing pressure from a growing human population. Recent census data established the Bend-Redmond area as the fastest growing metropolitan area on the west coast. That coupled with mule deer population estimates that are 40-50% of Department management objectives highlights the importance of maintaining WA Zone protections.

It is outside of the Department’s purview to comment on whether permitting churches in the WA Zone complies with the Religious Land Use and Institutionalized Persons Act (RLUIPA). More broadly, the proposed amendment would allow a use that the Department, the U.S. Forest Service, Bureau of Land Management, and U.S. Fish and Wildlife Service have deemed in an “Interagency Report” to be in conflict with wildlife habitat values because it “generate[s] a high level of public activity, noise, and habitat alterations, which in turn can impact large geographic spaces and alter many acres of valuable wildlife habitat” (see p21 of the 2009 “Updated Wildlife Information and Recommendations for the Deschutes County Comprehensive Plan Update”).

The CDD states that mitigation for impacts associated with this amendment will be achieved by prohibiting outdoor activities during the time of year when animals are using the WA Zone. That prohibition may address animals' exposure in winter to the "high levels of public activity" and "noise" listed above. However, it does not adequately mitigate for the "habitat alterations, which in turn can impact large geographic spaces and alter many acres of valuable wildlife habitat" that will likely occur under this amendment. The habitat in the WA Zone must be conserved throughout the year so that it is available and functioning for wildlife during the winter.

As mentioned above, the Department has previously agreed that churches (as well as golf courses, commercial dog kennels, schools, bed and breakfast inns, dude ranches, playgrounds, recreation facilities, community centers, timeshare units, veterinary clinics, and fishing lodges) should be among the uses not permitted in the WA Zone. Additionally, from a wildlife conservation stand point, winter range is already at risk from currently permitted uses. Therefore, it would be counter to the Department's statutory responsibility to support this amendment. We recommend that the Planning Commission reject this amendment and the CDD develop an alternative to comply with RLUIPA that will preserve the intent of the Goal 5 planning process.

Thank you for the opportunity to comment.

Sincerely,



Sara Gregory
Wildlife Habitat Biologist
sara.c.gregory@state.or.us
541-388-6147

cc: Bruce Eddy, East Region Manager, ODFW
Brett Hodgson, Acting Deschutes Watershed Manager, ODFW
Corey Heath, Deschutes District Wildlife Biologist, ODFW



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281

November 14, 2017

Deschutes County Community Development Department
P.O. Box 6005
117 NW Lafayette Ave
Bend, OR 97708

Re: Planning Division File 247-17-000702-TA/247-17-000703-PA

The purpose of this letter is to provide additional Oregon Department of Fish and Wildlife (Department) comments on the revised proposed Deschutes County Community Development Department (CDD) text amendment to the Deschutes County Comprehensive Plan, Chapter 2, Resource Management, to permit churches in the Wildlife Area Combining Zone (WA Zone). The Department submitted comments objecting to the first draft of the text amendment in a letter dated September 22, 2017. As the Department does not appear in the Planning Manager's October 31, 2017 memorandum listing those who submitted written testimony, we are resubmitting our original letter with this correspondence. Please add them both to the record.

As we discussed during the November 6th public hearing and our previous letter, the Department continues to object to the proposed text amendments according to our statutory responsibility. Mule deer are the only type of deer found in Deschutes County and their populations have been in decline for decades. In some parts of the County there have been declines of up to 70% since 2000. As a result, the Department has made the necessary adjustments to hunting seasons so as not to cause additional declines through harvest. Unfortunately, there are other elements contributing to reductions in mule deer populations. Among the many factors contributing to their decline, many can be tied to human caused habitat reduction, fragmentation, and disturbance on winter range.

Unlike other deer species, mule deer are more specific in their habitat needs and more sensitive to humans. Commonly mule deer exhibit migratory behavior whereby they take advantage of the variety of plants available in the mountains during the summer and then move to areas such as those in the WA Zone for the winter to escape deep snow at higher elevations. This means traveling many miles each spring and fall. Mule deer also show a strong fidelity to their migration corridors and their summer and winter ranges. They will return to the same winter range year after year. This winter range is where deer typically interact with people and associated land use. Department studies of hundreds of collared mule deer in central Oregon showed that migratory deer had a better chance of surviving than deer that did not migrate. Therefore, maintaining migratory herds is among the Department's priorities.

Maintaining winter range areas that are relatively free from human disturbance is one way to improve mule deer populations. It is difficult for people to interpret stress induced behavior in mule deer because they will often remain motionless when face to face with a human instead of

fleeing. However, Department studies showed a strong avoidance of people during the winter. When deer are disturbed by people, their stress levels rise, they increase their movements, and use valuable energy reserves that could make them vulnerable to increased mortality from vehicles, predators and disease among other things. In addition, other research has shown that as residential development increases, survival of mule deer fawns decreases. Low fawn survival equates to slow or negative population growth. Therefore, relying on urban development to support our mule deer populations is not a sustainable or desirable option.

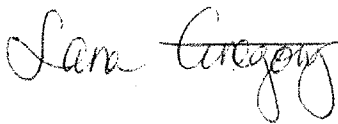
Through the creation for the WA Zone, Deschutes County recognized the need to preserve traditional winter habitat for mule deer. This in turn preserves open space and habitat for a variety of other species. Indeed, in protecting winter range the Goal 5 planning process has also helped to protect the scenic views and recreational opportunities that makes Deschutes County a desirable place to live and visit.

The Department is concerned that the CDD's Economic, Social, Environmental, and Energy (ESEE) analysis of the proposed text amendment failed to adequately examine the value of mule deer and other wildlife. At last estimate, hunting and wildlife viewing contributed more than \$50 million to the Deschutes County economy annually. There is also a social and environmental component to prioritizing wildlife habitat values that should be considered. The long term consequences of these proposed text amendments could contribute to permanent removal of hundreds of acres of wildlife habitat as the WA Zone would be vulnerable to the construction of very large structures and their associated human presence. This could further compromise the future of healthy functioning mule deer herds in Deschutes County. The Department requests a revised ESEE analysis that recognizes the wildlife values that could be impacted by these text amendments.

Finally, the Department would like the language on Packet Page 22 revised to remove the statement that these text amendments were developed in coordination with the Oregon Department of Fish and Wildlife. While Department staff appreciate the positive working relationship we have with CDD staff and hope to collaborate on future projects, in this case, we were not able to come to an agreement.

Thank you for considering these comments. If you have any questions please contact me.

Sincerely,



Sara Gregory
Wildlife Habitat Biologist
sara.c.gregory@state.or.us
541-388-6147

cc: Bruce Eddy, East Region Manager, ODFW
Michael Harrington, Deschutes Watershed Manager, ODFW
Corey Heath, Deschutes District Wildlife Biologist, ODFW



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281

August 8, 2019

Deschutes County Community Development Department
P.O. Box 6005
117 NW Lafayette Ave
Bend, OR 97703

Re: File No. 247-19-000512-PA/513-TA, Religious Institution Amendments

The purpose of this letter is to provide Oregon Department of Fish and Wildlife (Department) comments on the proposed Deschutes County Community Development Department (CDD) amendments to Deschutes County Code Title 18, County Zoning, Title 19, Bend Urban Area Zoning, and Title 23, Comprehensive Plan to address potential conflicts with the Religious Land Use and Institutionalized Persons Act (RLUIPA) and associated economic, social, environmental, and energy (ESEE) analysis.

Through the ESEE analysis, the CDD concluded, "religious institutions within... the Wildlife Area (WA) Combining Zone should be allowed fully, notwithstanding the possible impacts on the inventoried resources."

In keeping with the Department's statutory responsibility (ORS 496.012), we respectfully recommend that the Planning Commission reject this amendment and the CDD develop an alternative to comply with RLUIPA that will preserve the intent of the Goal 5 planning process.

The Department previously testified on this issue in two letters regarding File No. 247-17-000702-TA/247-17-000703-PA dated September 22nd and November 14, 2017. Some key points from that testimony include:

- The WA Combining Zone inventoried resources are under increasing pressure from a human population that is predicted to grow by more than 114,000 in the next 25 years.¹
- Uses that remove wildlife habitat and create barriers to animal movement have long-term, negative consequences for big game and other wildlife populations.
- Despite the Department's conservative management, mule deer population estimates are at 40-50% of management objectives. In some parts of Deschutes County, deer declines are as high as 70%. Curtailing this trend will require a coordinated, community-wide effort.

¹ <https://pdxscholar.library.pdx.edu/opfp/39/>

- The WA Combining Zone includes habitat for big game and many other native species that the Department is mandated to protect and enhance (ORS 496.012). Religious institutions as well as golf courses, commercial dog kennels, schools, bed and breakfast inns, dude ranches, playgrounds, recreation facilities, community centers, timeshare units, veterinary clinics, and fishing lodges “generate a high level of public activity, noise, and habitat alterations, which in turn can impact large geographic spaces and alter many acres of valuable wildlife habitat”.²

Per CDD staff request, the Department reviewed the amendments’ ESEE analysis (Religious Institutions Text Amendment: Appendix A), and has the following recommendations:

- **Chapter 2** (Page 6 of 22): Remove the term “best available data.” In June 2019, the Department informed CDD staff that updated, biologically relevant inventories are available; however, the ESEE analysis uses WA Combining Zone layers developed in the early 1990s.
- **General Impacts of Conflicting Uses** (Page 9 of 22):
 - Replace “habitat alteration” with “habitat removal.”
 - In addition to the impacts listed, any ground disturbance in the WA Combining Zone would likely result in the spread of invasive, nonnative plants that could replace and degrade native vegetation.
 - Add discussion regarding fragmentation. Human development in the WA would likely result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.
- **Chapter 4** (Page 11 of 22): Add a cumulative effects analysis to the **Impact Area Methodology** that identifies areas where habitat in the WA Combining Zone has previously been removed and/or fragmented. Evaluating the combination of individually minor uses over time is important for capturing the incremental impacts of human disturbance in the WA Combining Zone.
- **Scenario (A) Allow the Conflicting Use – Environmental Consequences** (Page 15 of 22): The Department acknowledges that it may be “difficult to provide data related to average size of assemblies, traffic counts, and the extent of... activity.” However, it is important to note that religious institutions have requirements for off-street parking proportional to their capacity or square footage (DCC 18.116, Supplementary Provisions) that will have negative consequences of wildlife habitat removal and fragmentation beyond the footprint of the structure.
- **Scenario (B) Prohibit the Conflicting Use –** (Page 17 of 22):
 - **Economic Consequences** – Change “neutral consequences” to “positive consequences.” Quelling habitat loss could contribute to mule deer population stability or growth and a subsequent increase in hunting and wildlife viewing.
 - **Environmental Consequences** – Change “neutral consequences” to “positive consequences.” Actively protecting habitat from potential large scale developments will result in fewer impacts to wildlife populations and habitats.

Finally, where future uses such as religious institutions are allowed in the WA Combining Zone, either outright or conditionally, the Department will continue to

²https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/10651/11_8_17_tim_ramis_letter_exhibits_b_through_h.pdf (page 21)

recommend application of its Fish and Wildlife Habitat Mitigation Policy (OAR 635-415).³ Most of the inventories in the WA Combining Zone would be considered "Habitat Category 2" or essential and limited habitat. Thus, if impacts are unavoidable, the Department will recommend mitigation resulting in "no net loss" as well as a "net benefit" to habitat quantity or quality [OAR 635-415-0025(2)].

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Sara Gregory".

Sara Gregory
Wildlife Habitat Biologist, ODFW
sara.c.gregory@state.or.us
541-388-6147

cc: Bruce Eddy, East Region Manager, ODFW
Mike Harrington, Deschutes Watershed Manager, ODFW
Corey Heath, Deschutes District Wildlife Biologist, ODFW
Joy Vaughan, Land Use and Waterway Alterations Coordinator, ODFW

³ <https://www.dfw.state.or.us/OARs/415.pdf>



Deschutes County Board of Commissioners
1300 NW Wall St, Bend, OR 97703
(541) 388-6570 – Fax (541) 385-3202 – <https://www.deschutes.org/>

AGENDA REQUEST & STAFF REPORT

For Board of Commissioners BOCC Wednesday Meeting of January 22, 2020

DATE: January 8, 2020

FROM: Peter Gutowsky, Community Development, 541-385-1709

TITLE OF AGENDA ITEM:

Consideration of Second Reading: Ordinance No. 2020-001, Religious Land Use Institutionalized Persons Act

BACKGROUND AND POLICY IMPLICATIONS:

The Board deliberated and conducted first reading on January 8, 2020 regarding several amendments to Deschutes County Code (DCC) Title 18, County Zoning; Title 19, Bend Urban Area Zoning; and Title 23, Comprehensive Plan through file numbers 247-19-000512-PA/513-TA. The purpose of the amendments is to address potential conflicts with the Religious Land Use and Institutionalized Persons Act (RLUIPA). The current county code was determined to be noncompliant with RLUIPA in the most-recent *Shepherdsfield Church* Land Use Board of Appeals decision and requires an amendment to correct the issue. Second reading will occur on January 22.

FISCAL IMPLICATIONS: *None.*

ATTENDANCE: Peter Gutowsky, Planning Manager