

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, and Title 19,  
Bend Urban Area Zoning, to permit child care uses as  
a use permitted outright subject to site plan review  
and Declaring an Emergency. \*

ORDINANCE NO. 2020-010

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-120-000245-TA) to the Deschutes County Code (DCC) Title 18, Chapters 18.04, Title, Purpose, and Definitions; 18.65, Rural Service Center Zone; 18.66, Terrebonne Rural Community Zoning Districts; 18.67, Tumalo Rural Community Zoning Districts; 18.74, Rural Commercial Zone; 18.116, Supplementary Provisions; 18.128, Conditional Use; Title 19, Chapters 19.04, Title, Compliance, Applicability, and Definitions; 19.20, Suburban Low Density Residential Zone; 19.28, Urban Standard Residential Zone; and 19.64, Light Industrial Zone, to permit child care uses as a use permitted outright subject to site plan review in zones where child care uses were previously subject to a conditional use permit; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on May 14, 2020, and forwarded to the Deschutes County Board of County Commissioners ("Board"), a unanimous recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on June 3, 2020 and concluded that the public will benefit from the proposed changes to the Deschutes County Code Titles 18, and 19; 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 ~~strikethrough~~.

Section 2. AMENDMENT. DCC 18.65. Rural Service Center Zone, 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 ~~strikethrough~~.

Section 3. AMENDMENT. DCC 18.66. Terrebonne Rural Community Zoning Districts, 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 ~~strikethrough~~.

Section 4. AMENDMENT. DCC 18.67. Tumalo Rural Community Zoning Districts, 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 18.74. Rural Commercial 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 18.116. Supplementary Provisions, 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 18.128. Conditional Use, 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 19.04. Title, Compliance, Applicability, and Definitions, 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 19.20. Suburban Low Density Residential 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 19.28. Urban Standard Residential 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 19.64. Light Industrial 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~~.

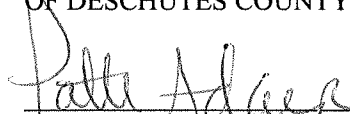
Section 12. FINDINGS. The Board adopts as its findings, Exhibit “L” attached and incorporated by reference herein.

///

Section 13. EMERGENCY. This Ordinance being necessary to address a need for child care in Deschutes County and for the immediate preservation of the public peace, health, safety, and welfare, an emergency is declared to exist, and this Ordinance becomes effective thirty (30) days after adoption.


Dated this 3 of June, 2020

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
PATTI ADAIR, Chair

  
ANTHONY DEBONE, Vice Chair

ATTEST:

  
Recording Secretary

  
PHILIP G. HENDERSON

Date of 1<sup>st</sup> Reading: 3 day of June, 2020.

Date of 2<sup>nd</sup> Reading: 3 day of June, 2020.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Patti Adair	<u>X</u>	—	—	—
Anthony DeBone	<u>X</u>	—	—	—
Philip G. Henderson	<u>X</u>	—	—	—

Effective date: 3 day of July, 2020.

## Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

### 18.04.030. Definitions.

\* \* \*

~~“Child care center” see “child care facility.” means a child care facility that is certified to care for thirteen or more children or a childcare facility that was not constructed as single family home that is certified to care for 12 or fewer children.~~

~~“Child care facility” as used in Title 18 is defined in ORS 329A.~~

~~“Family child care provider” means a child care provider who regularly provides child care in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status, to fewer than 12 children, including children of the provider (regardless of part- or full-time status), in the family living quarters of the provider’s single family home.~~

~~“Nursery, day” see “child care facility.” means a facility providing day care to three or more children, aged 14 years or under, but not including any:~~

~~A. Facility providing care that is primarily educational unless provided to a preschool child for more than four hours a day;~~

~~B. Facility providing care that is primarily supervised training in a specific subject including but not limited to dancing, drama, music or religion;~~

~~C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;~~

~~D. Facility operated by a school district or governmental agency; or~~

~~E. Residential facility licensed under ORS 413.100 to 413.115 and 413.991(2).~~

~~“Preschool” as used in Title 18 is defined in ORS 329A as “preschool recorded program.”~~

~~(Ord. 2020-010 §1, 2020; Ord. 2019-016 §1, 2019; Ord. 2019-010 §1, 2019; Ord. 2018-005, §8 2018 repealed; Ord. 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 18.65. RURAL SERVICE CENTER - UNINCORPORATED COMMUNITY ZONE**

**18.65.022. Residential District (Alfalfa).**

**18.65.022. Alfalfa RSC - Residential District**

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright, subject to the applicable provisions of this chapter:
1. Agricultural uses, as defined in Title 18, subject to the restrictions in DCC 18.65.021(D), and excluding livestock feed lot or sales yard, and hog or mink farms.
  2. Single-family dwelling, or a manufactured home subject to DCC 18.116.070.
  3. Two-family dwelling or duplex.
  4. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
  5. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
  6. Class III road or street project.
  7. Type I Home Occupation, subject to DCC 18.116.280.
- 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.
  - ~~4. Child care facility and or preschool.~~
- 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.~~
  - ~~3~~ 3. 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).
- D. Yard and Setback Requirements.
1. The front yard setback shall be a minimum of 20 feet from a property line fronting on a local street right of way and 50 feet from an arterial right of way.
  2. The minimum side yard setback shall be 10 feet.
  3. The minimum rear yard setback shall be 20 feet.
- E. Lot Requirements.
1. The minimum lot size is 5 acres.
  2. The minimum average width of lots shall be 200 feet.
  3. Each lot must be served by an on-site well.
  4. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to final approval of a subdivision or partition.
  5. Lot coverage for a dwelling and accessory buildings used primarily for residential purposes shall not exceed twenty-five (25) percent of the total lot area. Lot coverage for buildings used primarily for

commercial purposes shall be determined by spatial requirements for sewage disposal, landscaping, parking, yard setbacks and any other elements under site plan review.

F. Limitations on uses – RSC-Residential District. The following limitation shall apply to uses permitted in the RSC – Residential District:

1. Cows, horses, goats or sheep cannot be kept on lots having an area of less than 20,000 square feet. The total number of all such animals (other than their young under the age of six months) shall be limited to the square footage of the lot divided by 20,000 square feet, which is the minimum area per animal.
2. The number of chickens, fowl or rabbits over the age of six months shall not exceed one for each 500 square feet of land.
3. All livestock shall be located a minimum of 100 feet away from a residential building on an adjacent lot.

(Ord. 2020-010 s2, 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.

### 18.66.020. Residential (TeR) District.

The Terrebonne Residential District allows a mixture of housing types and densities suited to the level of available water and sewer facilities. The purpose of this district is to allow new residential development that is compatible with the rural character of the area.

- A. Permitted uses. The following uses and their accessory uses are permitted outright and do not require site plan review:
1. Single-family dwelling or a manufactured home subject to DCC 18.116.070.
  2. Two-family dwelling.
  3. Type I Home Occupation, subject to DCC 18.116.280.
  4. Agricultural uses as defined in DCC 18.04, involving:
    - a. Keeping of cows, horses, goats, sheep or similar farm animals, provided that the total number of such animals over the age of six months is limited to the square footage of the lot or parcel divided by 20,000 square feet.
    - b. Keeping of chickens, fowl, rabbits or similar farm animals, provided that the total number of such animals over the age of six months does not exceed one for each 500 square feet of property.
  5. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
  6. Class III road or street project.
  7. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- 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. Child care facility and or preschool.
- 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. Manufactured home park.
  2. Multi-family dwelling complex.
  3. Retirement center or nursing home.
  4. Cluster development.
  5. Church.
  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.~~
  13. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

14. 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.

C. Lot Requirements.

1. Partitions:

- a. Subject to the provisions of DCC 17.36.170(A), parcels not served by an approved community, non-community or municipal water system and not served by a public sewer system, shall have a minimum width of 150 feet with a minimum parcel size of one acre.
- b. Subject to DCC 17.36.170 parcels served by an approved community, non-community, municipal or public water system, but not served by an approved public sewer system, shall have minimum parcel sizes as follows:
  - i. For a single-family dwelling, a parcel shall have a minimum width of 100 feet and a minimum parcel size of 22,000 square feet.
  - ii. For a two-family dwelling, a parcel shall have a minimum width of 100 feet and a minimum parcel size of 33,000 square feet.
- c. For parcels served by an approved community, municipal or public water and sewer system, the minimum parcel sizes shall be as follows:
  - i. For a single-family dwelling, the parcel shall have a minimum width of 75 feet and a minimum parcel size of 7,500 square feet.
  - ii. For a two-family dwelling, the parcel shall have a minimum width of 75 feet and a minimum parcel size of 10,000 square feet.

2. Subdivisions:

- a. For subdivisions involving multi-family dwellings, a manufactured home park, a retirement center or a nursing home, all new lots shall be connected to a DEQ permitted wastewater pollution control facility.
- b. For subdivisions involving only single-family and two family dwellings the standards set forth in DCC 18.66.020(C)(1) shall apply.

D. Yard Standards.

1. Front Yard. The front yard shall be 20 feet for a property fronting on a local road right-of-way, 30 feet for a property fronting on a collector right-of-way and 80 feet for a property fronting on an arterial right-of-way.
2. Side Yard. A side yard shall be a minimum of five feet and the sum of the two side yards shall be a minimum of 15 feet, subject to DCC 18.66.020(D)(4).
3. Rear Yard. The minimum rear yard shall be 20 feet, subject to DCC 18.66.020(D)(4).
4. Exception to Yard Standards. Any new structure requiring a building permit on a lot or parcel contiguous to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
5. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

(Ord. 2020-010 §3, 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.**

The purpose of the Terrebonne Residential-5 Acre Minimum District is to retain large rural residential lots where community sewer and water are not available.

A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review:

1. Single-family dwelling or a manufactured home subject to DCC 18.116.070.
2. Two-family dwelling.
3. Type 1 Home Occupation, subject to DCC 18.116.280.

4. Agricultural uses as defined in DCC 18.04, involving:
    - a. Keeping of cows, horses, goats, sheep or similar farm animals, provided that the total number of such animals over the age of six months is limited to the square footage of the lot or parcel divided by 20,000 square feet.
    - b. Keeping of chickens, fowl, rabbits or similar farm animals over the age of six months, provided that the total numbers of such animals does not exceed one for each 500 square feet of property.
  5. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
  6. Class III road or street project.
  7. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- 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. Child care facility and or preschool.
- 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. Manufactured home park.
  2. Multi-family dwelling complex.
  3. Retirement center or nursing home.
  4. Church.
  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.~~
  11. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  12. 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.
- D. Lot Requirements. The minimum lot or parcel size in the TeR5 District is five acres regardless of the availability of approved community, non-community, municipal, or public water system and public sewer system.
- D. Yard Standards.
1. Front Yard. The front yard shall be 20 feet for a property fronting on a local road right-of-way, 30 feet for a property fronting on a collector right-of-way, and 80 feet for a property fronting on an arterial right-of-way.
  2. Side Yard. A side yard shall be a minimum of five feet and the sum of the two side yards shall be a minimum of 15 feet, subject to DCC 18.66.030(D)(4).
  3. Rear Yard. The minimum rear yard shall be 20 feet, subject to DCC 18.66.030(D)(4).
  4. Exception to Yard Standards. Any new structure requiring a building permit on a lot or parcel adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
  5. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 of shall be met. (Ord. 2020-010 §3, 2020; Ord. 2004-002 § 14, 2004; Ord. 97-063 § 3, 1997; Ord. 97-003 § 2, 1997)

**18.66.040. Commercial (TeC) District.**

The Terrebonne Commercial District is intended to allow a range of commercial and limited industrial uses to serve the community and surrounding rural area.

A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review:

1. Single-family dwelling or two-family on a lot or parcel existing on June 4, 1997.
2. Manufactured home on a lot or parcel existing on June 4, 1997, subject to DCC 18.116.070.
3. Type I Home Occupation, subject to DCC 18.116.280.
4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
5. Class III road or street project.
6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116 and 18.124:

1. A building or buildings not exceeding 4,000 square feet of floor space to be used by any combination of the following uses:
  - a. Retail or service business.
  - b. Eating or drinking establishment.
  - c. Offices.
  - d. Veterinary clinic and kennel entirely within an enclosed building.
  - e. Residential use in the same building as a use permitted by DCC 18.66.040(B)(1).
  - f. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
2. Any of the uses allowed under DCC 18.66.040 proposing to occupy more than 4,000 square feet of floor area in a building or buildings, subject to provisions of DCC 18.66.040(E).

~~3. Child care facility and or preschool.~~

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.
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.~~

13. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  - ~~15.4.~~ 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.
  - ~~16.5.~~ Marijuana processing, subject to the provisions of DCC 18.116.330.
  - ~~17.6.~~ Marijuana retailing, subject to the provisions of DCC 18.116.330.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.66.040(B) and (C).
1. Sewer and Water Requirements. Applicant must obtain approval for an on-site sewage disposal system, or if applicable, obtain a Department of Environmental Quality (DEQ) Waste Water Pollution Control Facility (WPCF) permit before approval or as condition of approval of the land use permit.
  2. The County shall notify the Terrebonne Domestic Water District of land use actions made under DCC 18.66.
- E. Requirements for Large Scale Uses.
1. All uses listed in DCC 18.66.040(B) and 18.66.040(C)(9) may have a total building floor area exceeding 4,000 square feet if the Planning Director or Hearings Body finds:
    - a. The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
    - b. The use will primarily employ a work force from the community and surrounding rural area; and
    - c. It is not practical to locate the use in a building or buildings with floor area of 4,000 square feet or less.
  2. For purposes of DCC 18.66.040, the surrounding rural area includes the area described by the Terrebonne zip code, which extends south to the boundary of the Redmond zip code, west to the boundary of the Sisters zip code, east into Crook County to the boundary of the Prineville zip code and north into Jefferson County to include Crooked River Ranch.
- F. Design Standards.
- Ground Floor Windows. The following criteria for ground floor windows apply to all new commercial buildings in the TeC District except those containing uses listed in DCC 18.66.040(C)(13). The provisions of DCC 18.124 also apply.
1. The window area shall equal at least 50 percent of the length and 25 percent of the height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls that abut sidewalks or roads.
  2. Required window areas shall be windows that allow views into either working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. Minimum size requirements for this district will be determined by spatial requirements for on-site sewage disposal, required landscaped areas and off-street parking. No lot or parcel shall be created of less than a minimum of 10,000 square feet.
- H. Dimensional Standards.
- Lot Coverage. No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.
- I. Yard Standards.
1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070(D)(3).  
The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
  2. Side Yard. No requirement, subject to DCC 18.66.040(I)(4).
  3. Rear Yard. No specific requirements, subject to DCC 18.66.040(I)(4).
  4. Exceptions to Yard Standards.

- a. Lot line adjacent to a residential district. Any new structure requiring a building permit sited on a lot adjacent to a residential district shall be set back a minimum of 15 feet from the common property line. The required yard shall be increased by one foot for each foot by which the building height exceeds 20 feet.
- b. Lot line adjacent to an EFU zone. Any new structure requiring a building permit on a lot or parcel adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.

(Ord. 2020-010 §3, 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)

## 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.

The Tumalo Residential (TuR) District allows a mixture of housing types and densities suited to the level of available water and sewer facilities. The purpose of this district is to allow new residential development that is compatible with the rural character of the area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review.
1. Single-family dwelling, or a manufactured home subject to DCC 18.116.070.
  2. Two-family dwelling.
  3. Type 1 Home Occupation, subject to DCC 18.116.280.
  4. Agricultural uses as defined in DCC Title 18, involving:
    - a. Keeping of cows, horses, goats, sheep or similar farm animals, provided that the total number of such animals over the age of six months is limited to one for each 20,000 square feet.
    - b. Keeping of chickens, fowl, rabbits or similar farm animals, provided that the total number of such animals over the age of six months does not exceed one for each 500 square feet of property.
  5. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.080 and 18.116.230.
  6. Class III road or street project.
  7. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- 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. Child care facility and or preschool.
- C. 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.
  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.~~
  11. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  - ~~12. 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.~~
- C. Lot Requirements.
1. Partitions:

- a. Subject to the provisions of DCC 17.36.170(A), parcels not served by an approved community, non-community or municipal water system shall have a minimum width of 150 feet with a minimum parcel size of one acre.
  - b. Subject to DCC 17.36.170(A), parcels served by an approved community, non-community, municipal or public water system, shall have a minimum parcel size as follows:
    - 1. For a single-family dwelling the parcel shall have a minimum width of 100 feet and a minimum parcel size of 22,000 square feet.
    - 2. For a two-family dwelling the parcel shall have a minimum width of 100 feet and a minimum parcel size of 33,000 square feet.
  - 2. Subdivisions:
    - a. For subdivisions involving multi-family dwellings, a manufactured home park or a retirement home, all new lots shall be connected to a DEQ-permitted Wastewater Pollution Control Facility.
    - b. For subdivisions involving only single-family and two-family dwellings the standards set forth in DCC 18.67.020(C)(1) shall apply.
- D. Yard Standards.
- 1. Front Yard. The front yard shall be 20 feet for a property fronting on a local street right-of-way, 30 feet for a property fronting on a collector right-of-way and 80 feet for a property fronting on an arterial right-of-way.
  - 2. Side Yard. A side yard shall be a minimum of five feet and the sum of the two side yards shall be a minimum of 15 feet, subject to DCC 18.67.020(D)(4).
  - 3. Rear Yard. The minimum rear yard shall be 20 feet, subject to DCC 18.67.020(D)(4).
  - 4. Exception to Yard Standards. Any new structure requiring a building permit on a lot or parcel contiguous to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
- (Ord. 2020-010 §4, 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.**

The purpose of the Tumalo Residential-5 Acre Minimum District is to retain large rural residential lots.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review.
  - 1. Single-family dwelling or a manufactured home subject to DCC 18.116.070.
  - 2. Type I Home Occupation, subject to DCC 18.116.280.
  - 3. Agricultural uses as defined in DCC 18.04, involving:
    - a. Keeping of cows, horses, goats, sheep or similar farm animals, provided that the total numbers of such animals over the age of six months is limited to the square footage of the lot or parcel divided by 20,000 square feet.
    - b. Keeping of chickens, fowl, rabbits or similar farm animals over the age of six months, provided that the total numbers of such animals does not exceed one for each 500 square feet of property.
  - 4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.080 and 18.116.230.
  - 5. Class III road or street project.
  - 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- 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. Child care facility and/or preschool.
- 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.

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.~~
  8. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
  - ~~9. 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.~~
- C. Lot Requirements. The minimum lot or parcel size in the TuR5 District is five acres.
- D. Yard Standards.
1. Front Yard. The front yard shall be 20 feet for a property fronting on a local street right-of-way, 30 feet for a property fronting on a collector right-of-way, and 80 feet for a property fronting on an arterial right-of-way.
  2. Side Yard. A side yard shall be a minimum of five feet and the sum of the two side yards shall be a minimum of 15 feet, subject to DCC 18.67.030(D)(4).
  3. Rear Yard. The minimum rear yard shall be 20 feet, subject to DCC 18.67.030(D)(4).
  4. Exception to Yard Standards. Any new structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
- (Ord. 2020-010 §4, 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.**

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review.
1. Single-family dwelling or duplex.
  2. Manufactured home subject to DCC 18.116.070.
  3. Type 1 Home Occupation, subject to DCC 18.116.280.
  4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.060 and 18.116.230.
  5. Class III road or street project.
  6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116 and 18.124:
1. A building or buildings, none of which exceeds 4,000 square feet of floor space to be used by any combination of the following uses:
    - a. Retail or service business.
    - b. Eating and/or drinking establishment.
    - c. Offices.
    - d. Residential use in the same building as a use permitted in DCC 18.67.040.
    - e. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
  2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).

3. Child care facility and or preschool.
- 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.
  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.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(11).
1. Compatibility.
    - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel adjacent to or across a local or collector street from a lot or parcel in a residential district.
  2. Traffic and Parking.
    - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity and level of service of the affected transportation facility.
    - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.
- E. Requirements for Large Scale Uses.
1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
    - a. The use is intended to serve the community and surrounding rural area or the traveling needs of people passing through the area;
    - b. The use will primarily employ a work force from the community and surrounding rural area; and
    - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
  2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).

3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.
- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.
1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
  2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. No lot shall be created having less than a minimum of 10,000 square feet. Lot requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas and off-street parking.
- H. Dimensional Standards.
1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.
  2. No use listed in DCC 18.67.040(C)(10) that is located adjacent to or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage by all buildings, outside storage, or off-street parking and loading areas.
- I. Yard Standards.
1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3).  
The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
  2. Side Yard. No requirement, subject to DCC 18.67.040(I)(4).
  3. Rear Yard. No specific requirement, subject to DCC 18.67.040 (I)(4).
  4. Exceptions to Yard Standards.
    - a. Lot line adjacent to a residential zone.  
For all new structures or substantial alteration of a structure requiring a building permit on a lot adjacent to a residential district, the setback shall be a minimum of 15 feet. The required yard will be increased by one foot for each foot by which the building height exceeds 20 feet.
    - b. Lot line adjacent to an EFU zone. Any structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.

(Ord. 2020-010 §4, 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**

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

**18.74.027. Uses Permitted – Pine Forest and Rosland.**

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

~~B.A.~~ Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.128:

1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses.
  - a. Restaurant, café or delicatessen.
  - b. Grocery store.
  - c. Tavern.
  - d. Retail sporting goods and guide services.
  - e. Barber and beauty shop.
  - f. General store.
  - g. Video store.
  - h. Antique, art, craft, novelty and second hand sales if conducted completely within an enclosed building.
2. Expansion of a nonconforming use listed under section B(1)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
  - a. Retail sales of agricultural or farm products.
  - b. Farm machinery sales and repair.
  - c. Kennel.
  - d. Veterinary clinic.
  - e. Automobile service station and repair garage, towing service, fuel storage and sales.
  - f. Public or semi-public use.
  - g. Residential use in the same building as a use permitted by this chapter.
  - h. Park or playground.
4. Expansion of a nonconforming use listed under section B(3)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 3,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.

~~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. Child care facility and or preschool.

~~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.d.~~ Church.

~~ed.~~ 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. 2020-010 §§ 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)

#### **18.74.027. Uses Permitted – Pine Forest and Rosland.**

A. Uses Permitted Outright. Any use listed as a use permitted outright by DCC 18.74.020(A).  
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 and DCC 18.116 and 18.124:

1. A building or buildings each not exceeding 2,500 square feet of floor space to be used by any combination of the following uses that serve the surrounding rural area or the travel needs of persons passing through the area:
  - a. Eating and drinking establishments.
  - b. Retail store, office and service establishments.
  - c. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
2. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 2,500 square feet or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.
3. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any combination of the following uses:
  - a. Sales of agricultural or farm products.
  - b. Farm machinery sales and repair.
  - c. Kennel or veterinary clinic.
  - d. Automobile service station, repair garage, towing service, fuel storage and fuel sales.
  - e. Public or semi-public use.
  - f. Residential use in the same building as a use permitted in this chapter.
  - g. Park or playground.
4. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 3,500 square feet each or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.

~~5. Child care facility and or preschool.~~

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.~~
  - ~~ed.~~ Church.
  - ~~fe.~~ School.
  - ~~ef.~~ 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. 2020-010 §§ 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 18.116. SUPPLEMENTARY PROVISIONS**

**18.116.215. Family Child ~~care~~-Care Provider.**

18.116.360. Nursery Schools.

**18.116.215. Family Child ~~care~~-Care Provider.**

A. A family child care provider's home shall be considered a residential use of property, permitted in all areas zoned for residential and commercial purposes, including areas zoned for single-family dwellings.

B. The family child care provider's home is subject to the same restrictions imposed on any residential dwelling in the same residential or commercial zone.

(Ord. 2020-010 §6, 2020; Ord. 97-003 §3, 1997)

18.116.360. Nursery Schools.

A. Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from adjoining lots.

B. Nursery schools in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.

(Ord. 2020-010 §6, 2020)

**Chapter 18.128. CONDITIONAL USE**

**18.128.190. Schools.**

**18.128.190. Schools.**

~~A. Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from adjoining lots.~~

~~BA. Secondary schools shall provide a site area of 10 acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.~~

~~CB. Notwithstanding DCC 18.128.190(BA), private academic secondary schools with an enrollment of fewer than 50 students shall provide a minimum site area of one acre for every 10 students of predicted ultimate enrollment, with a minimum site area of not less than two acres.~~

~~DC. Schools in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.~~

~~(Ord. 2020-010 §7, 2020; Ord. 98-013 §4, 1998; Ord. 97-022 §1, 1997; Ord. 95-075 §1, 1995; Ord. 91-020 §1, 1991)~~

**Chapter 19.04. TITLE, COMPLIANCE, APPLICABILITY, AND DEFINITIONS**

**19.04.040. Definitions.**

\* \* \*

"Child care facility" as used in Title 19 is defined in ORS 329A.

"Day care center or facility" see "child care facility." means an agency, organization or individual providing daytime care of six or more children not related by blood, marriage to, or not the legal wards or foster children of the attendant adult. (Nursery.)

"Family child care provider" means a child care provider who regularly provides child care in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status.

"Preschool" as used in Title 19 is defined in ORS 329A as "preschool recorded program."

(Ord. 2020-010 §8, 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 19.20. SUBURBAN LOW DENSITY RESIDENTIAL ZONE - SR 2 1/2

### 19.20.020. Permitted Uses.

### 19.20.030. Conditional Uses.

#### 19.20.020. Permitted Uses.

The following uses are permitted:

- A. Single-family dwelling.
- B. Agriculture, excluding the keeping of livestock.
- C. Home occupations subject to DCC 19.88.140.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.
- E. Accessory Dwelling Units, subject to DCC 19.92.150.
- F. Child care facility and or preschool.

(Ord. 2020-010 §9, 2020; Ord. 2019-009 §5, 2019; Ord. 93-018-1 §3, 1993; Ord. 91-001 §4, 1991; Ord. 88-042 §6, 1988)

#### 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 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. 2020-010 §9, 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 19.28. URBAN STANDARD RESIDENTIAL ZONE - RS

### 19.28.020. Permitted Uses.

### 19.28.030. Conditional Uses.

#### 19.28.010. Purpose.

The RS Zone is intended to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living.

(Ord. 90-038 §1, 1990)

#### 19.28.020. Permitted Uses.

The following uses are permitted:

- A. Single-family dwelling.
- B. Agriculture, excluding the keeping of livestock.
- C. Rooming and boarding of not more than two persons.
- D. Home occupation subject to the provisions of DCC 19.88.140.
- E. Other accessory uses and buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.

~~F. Child care facility and or preschool.~~

~~(Ord. 2020-010 §10, 2020; Ord. 90-038 §1, 1990)~~

#### 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. Churches 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. ~~2020-010 §10, 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 19.64. LIGHT INDUSTRIAL ZONE - IL

### 19.64.020. Permitted Uses.

### 19.64.030. Conditional Uses.

### 19.64.020. Permitted Uses.

The following uses are permitted in the IL Zone subject to the provisions of DCC 19.76.

- A. Any permitted use in the IP Zone.
- B. Cold storage plants, including storage and office.
- C. Fuel oil distributors.
- D. Printing, publishing and book binding.
- E. Public utility buildings and yards.
- F. Veterinary clinic and hospitals operated entirely within an enclosed building.
- G. Light fabrication and repair shops, such as blacksmith, cabinet, electric motor, heating, machine, sheet metal, sign, stone monuments, upholstery and welding.
- H. Assembly, manufacture or preparation of articles and merchandise from the following previously prepared types of materials: Bone, canvas, cellophane, cloth, cork, feathers, felt, leather, precious or semiprecious metal or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planing mills, molding plants, particle board, wafer board, plywood and pulp process) yarns and paint not employing a boiling process.
- I. Manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products and meat, drugs, perfume, pharmaceuticals, perfumed toilet soap, toiletries; excluding the rendering of fats and oils, fish and meat slaughtering and fermented foods, such as sauerkraut, vinegar and yeast.
- J. Processing uses such as bottling plants, creameries, laboratories, blueprinting and photocopying, laundries, carpet and rug cleaning plants, cleaning and dyeing plants, tire retreading, recapping and rebuilding.
- K. Contractor's equipment, storage or sale yard, house mover, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition.
- L. Manufacture of concrete products and ceramic products using only previously pulverized clay.
- M. Manufacture of musical instruments, novelties, rubber or metal stamps, toys, optical goods or precision instruments or equipment.
- N. Manufacture of artificial limbs, dentures, hearing aids, surgical instruments and dressings and other devices employed by the medical and dental professions.
- O. Mini storage units.
- P. Planned unit developments subject to the provisions of DCC 19.104.
- Q. Accessory uses and buildings customarily appurtenant to a permitted use, such as incidental storage, are permitted.
- R. Wholesale distribution of all standard types of prepared or packaged merchandise such as automobile supplies, drug and electrical supplies, furniture, food products, hardware, leather goods, plumbing supplies, textiles and fabrics and general merchandise.
- S. Public buildings.
- T. Child care facility and or preschool.

(Ord. 2020-010 §11, 2020; Ord. 92-043 §2, 1992; Ord. 88-042 §§27, 28 and 29, 1988)

### 19.64.030. 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. Building over 35 feet in height.
- B. Livestock feed and sales yard.
- C. Ambulance service.
- D. Service commercial uses such as banks, offices, restaurants, cafes, refreshment stands, bars and taverns.
- E. All types of automobile, motorcycle and truck sales, service, repair and rental. Automobile and truck service stations subject to DCC 19.88.
- F. Boat building and repair.
- G. Retail or combination retail/wholesale lumber and building materials yard, not including concrete mixing.
- H. Trailer sales, storage and rental.
- I. Commercial parking lot.
- J. ~~Nursery school, kindergarten, and day care facility.~~
- K. Hydroelectric facility in accordance with DCC 19.100 and DCC 19.88.190.
- L. Manufactured home sales and service.

(Ord. 2020-010 §11, 2020; Ord. 92-008 §1, 1992, Ord. 88-042, 1988; Ord. 86-017 §13, 1986)

## FINDINGS

### I. BACKGROUND

Deschutes County is considered a “child care desert” according to *Oregon’s Child Care Deserts: Mapping Supply by Age Group, Metropolitan Status, and Percentage of Publicly Funded Slots*, a report commissioned by Oregon State University and the Oregon Early Learning Division.<sup>1</sup> A county is considered a child care desert if fewer than 33 percent of the county’s children have access to a slot (three young children for every child care slot). Slots are defined as regulated child care slots, including Certified Centers, Certified Family, and Registered Family Providers.<sup>2</sup> As shown in Table 1, Deschutes County is a child care desert for infants, toddlers and preschoolers.

**Table 1. Percent of Children in Deschutes County with Access to a Regulated Slot**

County	0-2 year olds	3-5 year olds	Total 0-5 year olds
Deschutes	11%	28%	20%

### II. EXISTING CODE

Deschutes County Code (DCC) contains several definitions relating to child care:

Title 18, County Zoning Ordinance<sup>3</sup>

1. “Child care center” means a child care facility that is certified to care for thirteen or more children or a childcare facility that was not constructed as single family home that is certified to care for 12 or fewer children.
2. “Family child care provider” means a child care provider who regularly provides childcare to fewer than 13 children, including children of the provider (regardless of part- or full-time status), in the family living quarters of the provider’s single-family home.
3. "Nursery, day" means a facility providing day care to three or more children, aged 14 years or under, but not including any:
  - A. Facility providing care that is primarily educational unless provided to a preschool child for more than four hours a day;

---

<sup>1</sup> <https://health.oregonstate.edu/sites/health.oregonstate.edu/files/early-learners/pdf/oregon-child-care-deserts-01-29-2019.pdf>

<sup>2</sup> Regulated includes Certified Centers, Certified Family, and Registered Family Providers

<sup>3</sup> DCC 18.04.030. Definitions

- B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;
- C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;
- D. Facility operated by a school district or governmental agency; or
- E. Residential facility licensed under ORS 443.400 to 443.445 and 443.991(2).

Title 19, Bend Urban Area Zoning<sup>4</sup>

- 1. "Babysitter" means a person who provides day care services for children in the home of the babysitter for not more than five children for eight or more hours in a 24 hour period as a home occupation.
- 2. "Day care center or facility" means an agency, organization or individual providing daytime care of six or more children not related by blood, marriage to, or not the legal wards or foster children of the attendant adult. (Nursery.)

Table 2 summarizes the zones currently permitting child care uses in rural Deschutes County.

**Table 2. Existing Child Care Zoning**

Code	Description
<b>Title 18 - County Zoning</b>	
<b>Chapter 18.65, Rural Service Center - Unincorporated Community Zone</b>	18.65.022 - Alfalfa RSC - Residential District (C) Conditional Uses Permitted (3) Daycare facility
<b>Chapter 18.04, Title, Purpose, and Definitions</b>	18.04.030 - Definitions "Family child care provider" means a child care provider who regularly provides childcare to fewer than 13 children, including children of the provider (regardless of part- or full-time status), in the family living quarters of the provider's single-family home.
<b>Chapter 18.66, Terrebonne Rural Community Districts</b>	18.66.020 - Residential (TeR) District (B) Conditional Uses Permitted (7) Child care center  18.66.030 - Residential-5 Acre Minimum (TeR5) District (B) Conditional Uses Permitted (7) Child care center  18.66.040 - Commercial (TeC) District (C) Conditional Uses Permitted (6) Child care center

<sup>4</sup> DCC 19.04.040. Definitions

Code	Description
<p><b>Chapter 18.67, Tumalo Rural Community Districts</b></p>	<p>18.67.020 – Residential (TuR) District (B) Conditional Uses Permitted (6) Child care center</p> <p>18.66.030 – Residential-5 Acre Minimum (TuR5) District (B) Conditional Uses Permitted (4) Child care center</p> <p>18.66.040 – Commercial (TuC) District (C) Conditional Uses Permitted (3) Child care center</p>
<p><b>Chapter 18.74, Rural Commercial Zone</b></p>	<p>18.74.020 – Uses Permitted – Deschutes Junction and Deschutes River Woods Store (C) Conditional Uses Permitted (1)(d) Child care center</p> <p>18.74.027 – Uses Permitted – Pine Forest and Rosland (C) Conditional Uses Permitted (1)(d) Child care center</p>
<p><b>Chapter 18.108, Urban Unincorporated Community Zone - Sunriver</b></p>	<p>18.108.055 –Town Center – TC District (A) Uses Permitted Outright (1)(h) Child care center, preschool, daycare facility</p> <p>18.108.110 –Business Park – BP District (A) Uses Permitted Outright (7) Child care center, preschool, daycare facility</p>
<p><b>Chapter 18.110, Resort Community Zone</b></p>	<p>18.110.020 - Seventh Mountain/Widgi Creek and Black Butte Ranch Resort Districts (B). Uses Permitted Subject to Site Plan Review (6) Daycare facility</p>
<p><b>Chapter 18.116, Supplementary Provisions</b></p>	<p>18.116.215 – Family Childcare Provider (A) A family childcare provider’s home shall be considered a residential use of property, permitted in all areas zoned for residential and commercial purposes, including areas zoned for single-family dwellings.</p> <p>(B) The family childcare provider’s home is subject to the same restrictions imposed on any residential dwelling in the same residential or commercial zone.</p>
<p><b>Chapter 18.128, Conditional Uses</b></p>	<p>18.128.190 – Schools (A) Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight obscuring fence at least four feet but not more than six feet high shall separate the play area from adjoining lots.</p> <p>(C) Schools in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.</p>

<b>Code</b>	<b>Description</b>
<b>Title 19 - Bend Urban Area Zoning Ordinance</b>	
<b>Chapter 19.12, Urban Area Reserve Zone</b>	19.12.020 – Permitted Uses (E) Day care center facilities subject to site review, DCC 19.76 and DCC 19.88.160.
<b>Chapter 19.20, Suburban Low Density Residential Zone</b>	19.20.030 – Conditional Uses (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.
<b>Chapter 19.28, Urban Standard Residential Zone</b>	19.28.030 – Conditional Uses (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.
<b>Chapter 19.64, Light Industrial Zone</b>	19.64.030 – Conditional Uses (J) Nursery school, kindergarten and day care facility.
<b>Title 19A - Bend Urbanizable Area District</b>	
<b>Title 19A, Bend Urbanizable Area</b>	19.A.01.020 - Permitted and Conditional Uses Table 19A.01.020 – Permitted Land Uses Family childcare home (16 or fewer children)
<b>Title 21 – Sisters Urban Area Zoning Ordinance</b>	
<b>Title 21.16 – Urban Area Reserve Zone</b>	21.16.20 – Permitted Uses (F) Day Care Center facilities subject to site review DCC 21.44 and 21.44.

### III. PROPOSAL

The Board of County Commissioners directed staff to initiate a legislative amendment to change day care, preschool, day nurseries, and child care facilities from a conditional use permit to a use permitted outright, subject to site plan review. The amendments would not add child care facilities as a use to zones that do not already allow them in some capacity.

The amendments also clarify the definition of “family child care provider” to correspond with Oregon Revised Statutes; family child care homes or providers are considered a residential use of property per ORS 329A.440 and Deschutes County Code 18.116.215, and are permitted in all areas zoned for residential and commercial purposes, including areas zoned for single-family dwellings.

Lastly, the proposed amendments consolidate all child care-related definitions noted above in Titles 18 and 19 by adding a new term, “child care facility,” which directly references ORS 329A. This is intended to eliminate confusion between Titles 18 and 19 as well as within each

chapter, where multiple terms—some of which lacked definitions—were utilized. Similarly, the amendments add a definition for “preschool,” referring to the definitions in ORS 329A.

The proposed amendments to Deschutes County Code (DCC) Title 18, County Zoning and Title 19, Bend Urban Area Zoning Ordinance are outlined in Ordinance No. 2020-010. Deschutes County is amending 7 chapters of DCC Title 18 and 4 chapters in DCC Title 19. Added language is underlined and deleted shown as ~~striketrough~~. Table 3 summarizes the amendments.

**Table 3: Summary of Child Care Amendments**

Code	Description
<b>Title 18 - County Zoning</b>	
<b>Chapter 18.04, Title, Purpose, and Definitions</b>	<p>Adds and deletes:</p> <p>18.04.030 – Definitions</p> <p><del>“Child care center” see “child care facility.” means a child care facility that is certified to care for thirteen or more children or a childcare facility that was not constructed as single family home that is certified to care for 12 or fewer children.</del></p> <p><u>“Child care facility” as used in Title 18 is defined in ORS 329A.</u></p> <p><del>“Family child care provider” means a child care provider who regularly provides child care in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status, fewer than 13 children, including children of the provider (regardless of part or full-time status), in the family living quarters of the provider’s single family home.</del></p> <p><del>“Nursery, day” see “child care facility.” means a facility providing day care to three or more children, aged 14 years or under, but not including any:</del></p> <ul style="list-style-type: none"> <li><del>A. Facility providing care that is primarily educational unless provided to a preschool child for more than four hours a day;</del></li> <li><del>B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;</del></li> <li><del>C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;</del></li> <li><del>D. Facility operated by a school district or governmental agency; or</del></li> <li><del>E. Residential facility licensed under ORS 443.400 to 443.445 and 443.991(2).</del></li> </ul> <p><u>“Preschool” as used in Title 18 is defined in ORS 329A as “preschool recorded program.”</u></p>

Code	Description
<p><b>Chapter 18.65, Rural Service Center – Unincorporated Community Zone</b></p>	<p>Adds:</p> <p>18.65.022 – Alfalfa RSC – Residential District (B) Uses Permitted Subject to Site Plan Review <u>(4) Child care facility and/or preschool</u></p> <p>Deletes:</p> <p>18.65.022 – Alfalfa RSC – Residential District (C) Conditional Use <u>(3) Daycare facility</u></p>
<p><b>Chapter 18.66, Terrebonne Rural Community Districts</b></p>	<p>Adds:</p> <p>18.66.020 – Residential (TeR) District <u>(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:</u></p> <p><u>1. Child care facility and/or preschool.</u></p> <p>18.66.030 – Residential-5 Acre Minimum (TeR5) District <u>(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:</u></p> <p><u>1. Child care facility and/or preschool.</u></p> <p>18.66.040 – Commercial (TeC) District (B) Uses Permitted, Subject to Site Plan Review <u>3. Child care facility and/or preschool.</u></p> <p>Deletes:</p> <p>18.66.020 – Residential (TeR) District (C) Conditional Uses <u>(7) Child care center</u></p> <p>18.66.030 – Residential-5 Acre Minimum (TeR5) District (C) Conditional Uses <u>(7) Child care center</u></p> <p>18.66.040 – Commercial (TeC) District (C) Conditional Uses <u>(6) Child care center</u></p>

Code	Description
<p><b>Chapter 18.67, Tumalo Rural Community Districts</b></p>	<p>Adds:</p> <p>18.67.020 – Residential (TuR) District  <u>(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:</u></p> <ol style="list-style-type: none"> <li><u>Child care facility and/or preschool.</u></li> </ol> <p>18.67.030 – Residential-5 Acre Minimum (TeR5) District  <u>(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:</u></p> <ol style="list-style-type: none"> <li><u>Child care facility and/or preschool.</u></li> </ol> <p>18.67.040 – Commercial (TuC) District  <u>(B) Uses Permitted, Subject to Site Plan Review</u></p> <ol style="list-style-type: none"> <li><u>Child care facility and/or preschool.</u></li> </ol> <p>Deletes:</p> <p>18.67.020 – Residential (TuR) District  (C) Conditional Uses  <del>(6) Child care center</del></p> <p>18.67.030 – Residential-5 Acre Minimum (TuR5) District  (C) Conditional Uses  <del>(4) Child care center</del></p> <p>18.67.040 – Commercial (TuC) District  (C) Conditional Uses  <del>(3) Child care center</del></p>
<p><b>Chapter 18.74, Rural Commercial Zone</b></p>	<p>Adds:</p> <p>18.74.020 – Uses Permitted – Deschutes Junction and Deschutes River Woods Store  <u>(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:</u></p> <ol style="list-style-type: none"> <li><u>Child care facility and/or preschool.</u></li> </ol> <p>18.74.027 – Uses Permitted – Pine Forest and Rosland  <u>(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:</u></p> <ol style="list-style-type: none"> <li><u>Child care facility and/or preschool.</u></li> </ol> <p>Deletes:</p> <p>18.74.020 – Uses Permitted – Deschutes Junction and Deschutes River Woods Store</p>

Code	Description
	<p>(C) Conditional Uses  <del>(1)(d) Child care center</del></p> <p>18.74.027 – Uses Permitted – Pine Forest and Rosland  (C) Conditional Uses  <del>(1)(d) Child care center</del></p>
<p><b>Chapter 18.116,  Supplementary  Provisions</b></p>	<p>Adds:</p> <p><u>18.116.360 – Nursery Schools</u>  A. <u>Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight obscuring fence at least four feet but not more than six feet high shall separate the play.</u>  B. <u>Nursery schools in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88.</u></p>
<p><b>Chapter 18.128, Conditional  Uses</b></p>	<p>Deletes:</p> <p><del>A. Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight obscuring fence at least four feet but not more than six feet high shall separate the play area from adjoining lots.</del></p>
<p><b>Title 19 - Bend Urban Area Zoning Ordinance</b></p>	
<p><b>Chapter 19.04, Title,  Compliance,  Applicability, and  Definitions</b></p>	<p>Adds and deletes:</p> <p>19.04.040 – Definitions</p> <p><u>"Child care facility" as used in Title 18 is defined in ORS 329A.</u></p> <p><u>"Day care center or facility" see "child care facility." means an agency, organization or individual providing daytime care of six or more children not related by blood, marriage to, or not the legal wards or foster children of the attendant adult. (Nursery.)</u></p> <p><u>"Family child care provider" means a child care provider who regularly provides child care in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status.</u></p> <p><u>"Preschool" as used in Title 18 is defined in ORS 329A as "preschool recorded program."</u></p>

Code	Description
<p><b>Chapter 19.20, Suburban Low Density Residential Zone</b></p>	<p>Adds:</p> <p>19.20.020 – Permitted Uses  <u>F. Child care facility and/or preschool.</u></p> <p>Deletes:</p> <p>19.20.030 – Conditional Uses  (D) Public, parochial and private schools, including <del>nursery schools, kindergartens and day nurseries</del>; but not including business, dancing, trade, technical or similar schools subject to DCC 19.88.160.</p>
<p><b>Chapter 19.28, Urban Standard Residential Zone</b></p>	<p>Adds:</p> <p>19.28.020 – Permitted Uses  <u>F. Child care facility and/or preschool.</u></p> <p>19.28.030 – Conditional Uses  ((D) Public, parochial and private schools, including <del>nursery schools, kindergartens and day nurseries</del>; but not including business, dancing, trade, technical or similar schools subject to DCC 19.88.160.</p>
<p><b>Chapter 19.64, Light Industrial Zone</b></p>	<p>Adds:</p> <p>19.64.020 – Permitted Uses  <u>T. Child care facility and/or preschool.</u></p> <p>19.64.030 – Conditional Uses  <del>(J) Nursery school, Kindergarten and day care facility.</del></p>

**IV. 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.

**V. 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 May 3, 2020 for the Planning Commission public hearing, and on May 24, 2020 for the Board of County Commissioners' 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 May 14, 2020. The Board then held a public hearing on June 3, 2020. These criteria are met.

5. Section 22.12.050 Final Decision

**All legislative changes shall be adopted by ordinance**

**FINDING:** The proposed legislative changes included will be implemented by Ordinance No. 2020-010 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 March 19, 2020. No comments were received from the Department of Land Conservation and Development. This finding document provides the adequate factual basis and documented analysis for this plan and zoning text amendment. This goal is met.

- **Goal 3, Agricultural Lands**

The proposed amendments do not apply to agricultural lands. This goal does not apply.

- **Goal 4, Forest Lands**

The proposed amendments do not apply to forest lands. This goal does not apply.

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

This goal is not applicable because the proposed amendments only grant the County the authority to approve applications to allow childcare uses. No development or land use changes are being proposed that might impact Goal 5 protected natural resources, scenic and historic areas, or open spaces. Any future application for a site-specific childcare use will have to demonstrate consistency with Goal 5.

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

This goal is not applicable because the proposed amendments only grant the County the authority to approve applications to allow childcare uses. No development or land use changes are being proposed that impact air, water and land resource qualities. Any future applications for a site-specific childcare use will have to demonstrate consistency with Goal 6.

- **Goal 8, Recreational Needs**

This goal is not applicable because the proposed amendments only grant the County the authority to approve applications to allow childcare uses. No development or land use changes are being proposed on recreational resources. Any future applications for a site-specific childcare use will have to demonstrate consistency with Goal 8.

- **Goal 9, Economic Development**

Goal 9 is intended to provide adequate opportunities throughout the state for a variety of economic activities, Goal 9 requires that land be designated for commercial and industrial uses according to the needs of the local and regional economy, current economic base, workforce, availability of land, availability of key public facilities, etc. Practically speaking, Goal 9 has required communities to preserve employment and industrial land for future business uses. The proposal would allow for childcare uses as use permitted outright, subject to site plan review, to meet the child care needs of the economy, the economic base and the work force. Therefore, the proposed amendment is consistent with this Goal.

- **Goal 10, Housing**

This goal is not applicable because, unlike municipalities, unincorporated areas are not obligated to fulfill Goal 10 housing requirements. Furthermore, no development or land use changes are being proposed that relate to or impact housing.

- **Goal 11, Public Facilities**

This goal is not applicable because the proposed amendments only grant the County the authority to approve applications to allow childcare uses. No development or land use changes are being proposed that impact public facilities. Any future applications for a site-specific childcare use will have to demonstrate consistency with Goal 11.

- **Goal 12, Transportation**

Goal 12 requires that the subject property be consistent with adopted transportation plans. Although the majority of the policies set forth in Goal 12 relate to the establishment of a comprehensive transportation system plan (TSP), they also require an application to

demonstrate that a proposal is consistent with the Transportation Planning Rule (TPR), as implemented through OAR 660-012-0060(1), which states that,

"Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility."

The proposed use will not change the functional classification of any arterial or collector nor change the applicable access management standards. The County's performance standards will also remain Level of Service (LOS D) for intersections and road segments. For an unsignalized intersection, which describes either a driveway or an intersection with stops signs, LOS D is 35-55 seconds delay. For road segments, the Deschutes County Transportation System Plan (TSP) defines LOS D as 9,600 average daily traffic (ADT).

Delay is affected by volumes on the through road and the driveway or side street. In the case of the driveway, zoning controls the potential trip generation. A Day Care Center (Land Use 565) in the 10<sup>th</sup> edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual is predicted to generate 47.62 weekday trips per 1,000 square feet and 11 a.m. and 11.12 p.m. peak hour trips per 1,000 square feet. However, these trip generation rates are reduced as Day Care Centers have a high pass-by rate. In other words, the parents are typically already driving to/from work and drop off/pick up their children on the way. The County in its transportation system development charge (SDC) credits Day Cares with a 90% pass-by rate. This is based on observation and experience with these uses. Thus, a Day Care Center could be expected to generate approximately 1 new trip per 1,000 square feet.

The combination of low trip generation rates due to high pass-by rate and the low volumes on County roads means the effect of adding Day Cares to County zones would have a minimal effect. This minimal effect holds regardless of whether Day Care is added as a new outright permitted use to existing zones or made an outright permitted use in zones where Day Care is now a conditional use. The plan amendment does not result in any significant effect and thus complies with the TPR.

- **Goal 13, Energy Conservation**

This goal is not applicable because the proposed amendments only grant the County the authority to approve applications to allow childcare uses. No development or land use changes are being proposed that impact energy conservation. Any future applications for a site-specific childcare use will have to demonstrate consistency with Goal 13.

- **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 3, Rural Growth Management**

#### Section 3.4, Rural Economy Policies

*Goal 1 Maintain a stable and sustainable rural economy, compatible with rural lifestyles and a healthy economy*

*3.4.1 Promote rural economic initiatives, including home-based businesses, that maintain the integrity of the rural character and the natural environment*

*a. Review land use regulations to identify legal and appropriate rural economic development opportunities*

**FINDING:** There is a documented need for child care in Deschutes County. Child care is a supportive commercial use that directly accommodates the needs of County residents. The typical size of a child care facility is 2,000-4,000 square feet in size; child care facilities are generally small scale and low impact, assuring conformance with Policy 3.4.1.