

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 18, Chapter 18.88, to permit churches in the Wildlife Area Combining Zone and Declaring an Emergency. \*  
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ORDINANCE NO. 2018-003

WHEREAS, the Deschutes County Community Development Department (CDD) initiated an amendment (Planning Division File No. 247-17-000702-TA) to the Deschutes County Code (DCC) Title 18, Chapter 18.88, Wildlife Area Combining Zone; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on September 28, 2017, 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 October 25, 2017, and concluded that the public will benefit from the proposed changes to the Deschutes County Code; now, therefore,

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

Section 1. AMENDMENT. DCC 18.88.040, Uses Permitted Conditionally, is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDMENT. DCC 18.128.080, Church, Hospital, Nursing, Convalescent Home, Retirement Home, is amended to read as described in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 3. FINDINGS. The Board adopts as its findings Exhibit "D," attached to Ordinance 2018-002 and incorporated by reference herein.


Section 4. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance becomes effective on January 25, 2018.

Dated this 3 of January, 2018

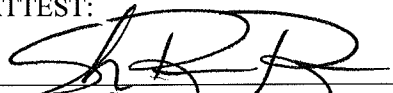
BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
\_\_\_\_\_  
ANTHONY DeBONE, Chair

  
\_\_\_\_\_  
PHILIP G. HENDERSON, Vice Chair

  
\_\_\_\_\_  
TAMMY BANEY, Commissioner

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

Date of 1<sup>st</sup> Reading: 3 day of January, 2018.

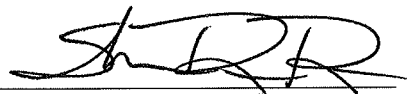
Date of 2<sup>nd</sup> Reading: 3 day of January, 2018.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<u>X</u>	___	___	___
Anthony DeBone	<u>X</u>	___	___	___
Philip G. Henderson	<u>X</u>	___	___	___

Effective date: 25 day of January, 2018.

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

**Chapter 18.88. WILDLIFE AREA COMBINING ZONE - WA**

**18.88.010. Purpose.**

**18.88.020. Application of Provisions.**

**18.88.030. Uses Permitted Outright.**

**18.88.040. Uses Permitted Conditionally.**

**18.88.050. Dimensional Standards.**

**18.88.060. Siting Standards.**

**18.88.070. Fence Standards.**

**18.88.010. Purpose.**

The purpose of the Wildlife Area Combining Zone is to conserve important wildlife areas in Deschutes County; to protect an important environmental, social and economic element of the area; and to permit development compatible with the protection of the wildlife resource.

(Ord. 93-043 §§13 and 13A, 1993)

**18.88.020. Application of Provisions.**

The provisions of DCC 18.88 shall apply to all areas identified in the Comprehensive Plan as a winter deer range, significant elk habitat, antelope range or deer migration corridor. Unincorporated communities are exempt from the provisions of DCC 18.88.

(Ord. 2004-013 §9, 2004; Ord. 96-003 §6, 1996; Ord. 92-042 §1, 1992)

**18.88.030. Uses Permitted Outright.**

In a zone with which the WA Zone is combined, the uses permitted outright shall be those permitted outright by the underlying zone.

(Ord. 92-042 §1, 1992; Ord. 91-020 §1, 1991)

**18.88.040. Uses Permitted Conditionally.**

A. Except as provided in DCC 18.88.040(B), in a zone with which the WA Zone is combined, the conditional uses permitted shall be those permitted conditionally by the underlying zone subject to the provisions of the Comprehensive Plan, DCC 18.128 and other applicable sections of this title.

B. The following uses are not permitted in that portion of the WA Zone designated as deer winter ranges, significant elk habitat or antelope range:

1. Golf course, not included in a destination resort;

2. Commercial dog kennel;

~~3. Church;~~

~~4. Public or private school;~~

~~5. Bed and breakfast inn;~~

~~6. Dude ranch;~~

~~7. Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization;~~

~~8. Timeshare unit;~~

~~9. Veterinary clinic;~~

~~10. Fishing lodge.~~

C. Subject to DCC 18.88.040(E), the following uses are permitted in that portion of the WA zone designated as the Bend/La Pine Deer Migration Corridor as conditional uses:

1. Church;
  2. Public or private school;
  3. Bed and breakfast inn;
  4. Playground, recreation facility or community center owned and operated by a government agency or a nonprofit community organization;
- D. Subject to DCC 18.113, destination resorts are allowed as a conditional use in that portion of the WA zone designated as the Bend/La Pine Deer Migration Corridor as long as the property is not in an area designated as "Deer Migration Priority Area" on the 1999 ODFW map submitted to the South County Regional Problem Solving Group.
- E. Use limitations.  
The uses listed in DCC 18.88.040(C) are subject to the applicable provisions of DCC 18.116 and 18.124 and the following criteria:
1. The parcel shall be zoned RR-10;
  2. The parcel shall be located within one-quarter mile of a rural service center and be located adjacent to a rural collector or a rural arterial identified on the Deschutes County Transportation Plan;
  3. The parcel shall be no less than one acre and no more than five acres in size;
  4. The parcel shall be farther than 100 feet from identified wetlands, floodplains or riparian areas.
  5. The property shall be outside areas designated as "Existing High Use Migration Areas" or "Important Connective Areas Through Existing Developed Areas" on the 1997 ODFW map submitted to the South County Regional Problem Solving Group.
  6. Fences developed as part of the conditional uses listed in DCC 18.88.040(C) shall be built from posts and poles or smooth wire and shall have a minimum bottom pole or wire height of 18 inches from the ground and a maximum top pole or wire height of 40 inches from the ground. Fences exempted from these standards shall be constructed in accordance with the provisions of DCC 18.88.070(B).
- F. Expansion of any use listed in DCC 18.88.040(B) that was lawfully established prior to August 5, 1992, is allowed, subject to provisions of DCC Title 18 applicable to the establishment of such uses. Expansion of golf courses under DCC 18.88.040 shall be limited to a final size of 18 holes.  
(Ord. 2018-003§1, 2018; Ord. 2001-19 §1, 2001; Ord. 98-013 §1, 1998; Ord. 95-075 §1, 1995; Ord. 95-001 §3, 1995; Ord. 92-042 §1, 1992)

**18.88.050. Dimensional Standards.**

In a WA Zone, the following dimensional standards shall apply:

- A. In the Tumalo, Metolius, North Paulina and Grizzly deer winter ranges designated in the Comprehensive Plan Resource Element, the minimum lot size for new parcels shall be 40 acres except as provided in DCC 18.88.050(D).
- B. In areas designated as significant elk habitat in the Comprehensive Plan Resource Element, the minimum lot size for new parcels shall be 160 acres.
- C. In areas designated as antelope range in the Comprehensive Plan Resource Element, the minimum lot size for new parcels shall be 320 acres.
- D. Residential land divisions, including partitions, in deer winter range where the underlying zone is RR-10 or MUA-10, shall not be permitted except as a planned development or cluster development conforming to the following standards:
  1. The minimum area for a planned or cluster development shall be at least 40 acres.
  2. The planned or cluster development shall retain a minimum of 80 percent open space and conform with the provisions of DCC 18.128.200 or 210.
  3. Notwithstanding the provisions of DCC 18.128.200 or 210, or DCC 18.60.060(C), the total number of residences in a cluster development may not exceed the density permitted in the underlying zone.

- E. Residential land divisions, including partitions, in the Bend/La Pine Deer Migration Corridor where the underlying zone is RR-10 shall not be permitted except as a cluster development conforming to the following standards:
1. The minimum area for a cluster development shall be at least 20 acres.
  2. The cluster development shall retain a minimum of 80 percent open space and conform with the provisions of DCC 18.128.200 or 210.
  3. Notwithstanding the provisions of DCC 18.128.200, or DCC 18.60.060(C), the total number of residences in the cluster development may not exceed the density permitted in the underlying zone.
- (Ord. 95-075 §1, 1995; Ord. 92-042 §1, 1992)

**18.88.060. Siting Standards.**

- A. Setbacks shall be those described in the underlying zone with which the WA Zone is combined.
- B. The footprint, including decks and porches, for new dwellings shall be located entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of August 5, 1992 unless it can be found that:
1. Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern; or,
  2. The siting within 300 feet of such roads or easements for vehicular access would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least possible impact on wildlife habitat considering browse, forage, cover, access to water and migration corridors, and minimizing length of new access roads and driveways; or,
  3. The dwelling is set back no more than 50 feet from the edge of a driveway that existed as of August 5, 1992.
- C. For purposes of DCC 18.88.060(B):
1. A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to August 5, 1992 if the applicant submits any of the following:
    - a. A copy of an easement recorded with the County Clerk prior to August 5, 1992 establishing a right of ingress and egress for vehicular use;
    - b. An aerial photograph with proof that it was taken prior to August 5, 1992 on which the road, easement or driveway allowing vehicular access is visible;
    - c. A map published prior to August 5, 1992 or assessor's map from prior to August 5, 1992 showing the road (but not showing a mere trail or footpath).
  2. An applicant may submit any other evidence thought to establish the existence of a private road, easement for vehicular access or driveway as of August 5, 1992 which evidence need not be regarded as conclusive.

(Ord. 95-001 §3, 1995; Ord. 92-042 §1, 1992)

**18.88.070. Fence Standards.**

The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.

- A. New fences in the Wildlife Area Combining Zone shall be designed to permit wildlife passage. The following standards and guidelines shall apply unless an alternative fence design which provides equivalent wildlife passage is approved by the County after consultation with the Oregon Department of Fish and Wildlife:
1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.
  2. The height of the fence shall not exceed 48 inches above ground level.
  3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.

B. Exemptions:

1. Fences encompassing less than 10,000 square feet which surround or are adjacent to residences or structures are exempt from the above fencing standards.
2. Corrals used for working livestock.

(Ord. 92-042 §1, 1992)

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

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

~~E. Churches in the Wildlife Area Combining Zone are subject to the provisions of DCC 18.88. (Ord. 2018-003 §2, 2018; Ord. 2006-008 §9, 2006; Ord. 2004-013 §14, 2004; Ord. 98-013 §2, 1998; Ord. 95-075 §1, 1995; Ord. 93-043 §23A, 1993; Ord. 91-020 §1, 1991)~~