

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code
18.108.120 to Permit Wireless Telecommunications
Facilities in the Sunriver Urban Unincorporated
Community Zone, Community General District.

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ORDINANCE NO. 2014-020

WHEREAS, Busch Law Firm for AT&T applied for a text amendment to the Deschutes County Code ("DCC") Chapter 18.108, to allow for wireless telecommunications facilities in the Sunriver Urban Unincorporated Community Zone, Community General District; and

WHEREAS, the Planning Commission held a public hearing on July 24, 2014, and forward to the Board of County Commissioners ("Board") a recommendation of approval as recommended by staff; and

WHEREAS, after notice was given in accordance with applicable law, a de novo public hearing was held on September 24, 2014 before the Board of County Commissioners ("Board"), and

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

Section 1. AMENDMENT. DCC 18.108.120, Community General District – CG District 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~~.


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Section 2. FINDINGS. The Board adopts as its findings Exhibit "B", attached and incorporated by reference herein.

Dated this 8th of Oct., 2014

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


TAMMY BANEY, Chair


ANTHONY DeBONE, Vice Chair

ATTEST:


Recording Secretary


ALAN UNGER, Commissioner

Date of 1st Reading: 24th day of Sept., 2014.

Date of 2nd Reading: 8th day of Oct., 2014.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony DeBone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 6th day of January, 2015

18.108.120. Community General - CG District.

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

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

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

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

BC. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

CD. Lot Requirements. The following lot requirements shall be observed:

1. Lot Area. No requirements.
2. Lot Width. No requirements.
3. Lot Depth. 100 feet.
4. Front Yard. The front yard shall be a minimum of 10 feet.
5. Side Yard. None, except when a side lot line is adjoining a lot in an RS or RM District, and then the side yard shall be a minimum of 10 feet. The required side yard shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
6. Rear Yard. None, except when a rear lot line is adjoining a lot in an RS or RM District, and then the rear yard shall be a minimum of 10 feet. The required rear yard shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
7. Lot Coverage. No requirements.

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

**FINDINGS OF THE BOARD OF COUNTY COMMISSIONERS
FOR DESCHUTES COUNTY**

FILE NUMBER: TA-14-5

APPLICANT: Busch Law Firm, PLLC for AT&T
93 S. Jackson St. #75604
Seattle, WA 98104-2818

REQUEST: An Ordinance Amending Deschutes County Code Section 18.108.120, Allowing Wireless Telecommunications Facilities as a Use Permitted Conditionally.

STAFF CONTACT: Cynthia Smidt, Associate Planner

HEARING DATE: September 24, 2014

I. APPLICABLE CRITERIA:

**Deschutes County Comprehensive Plan
Chapter 4, Urban Growth Management
Section 4.1 Introduction
Section 4.5 Sunriver**

**Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.12. Legislative Procedures
Section 22.12.010. Hearing Required.
Section 22.12.020. Notice.
Section 22.12.030. Initiation of Legislative Changes.
Section 22.12.040. Hearings Body.
Section 22.12.050. Final Decision.**

II. BASIC FINDINGS:

A. PROPOSAL: The Busch Law Firm for AT&T applied for an amendment to the Deschutes County Code (“DCC”) that would permit wireless telecommunications facilities conditionally in the Sunriver Community General (“SUCG”) District of the Sunriver Urban Unincorporated Community Zone (“UUC”). The text amendment to DCC 18.108.120, Community General – CG District, consists of adding a new subsection, subsection (B), for uses permitted conditionally. The SUCG includes a list of uses permitted outright but does not include any uses permitted conditionally. Adding wireless telecommunications facilities to the SUCG will provide and enhance the variety of support services allowed in that zone.

The Deschutes County Planning Commission held a duly noticed hearing on July 24, 2014. The Planning Commission recommended that the Deschutes County Board of County Commissioners (“Board”) adopt the proposed changes, as recommended by staff and accepted by the applicant. Staff recommended listing the use of “wireless telecommunications facilities” with language that is consistent throughout the zoning ordinance and Sunriver UUC. The Board held a public hearing on September 24, 2014 to review the proposed and make a final decision.

III. CONCLUSIONARY FINDINGS:

Deschutes County Comprehensive Plan

A. CHAPTER 4. URBAN GROWTH MANAGEMENT

1. Section 4.1 Introduction

Purpose

The Urban Growth Management chapter, in concert with the other chapters of this Plan, specifies how Deschutes County will work with cities and unincorporated communities to accommodate growth while preserving rural character and resource lands.

2. Section 4.5 Sunriver

Existing Land Uses

The predominant land use in Sunriver is residential, the majority of which is single-family residential development. However, since Sunriver was originally developed as a planned community, a number of other uses exist, making it somewhat self-reliant. Uses which support the residential components include a commercial core which contains a variety of retail businesses developed in a pedestrian mall setting, as well as a business park. A large component of development in Sunriver includes resort related amenities such as golf courses, a lodge, convention facilities and overnight accommodations. A fire station, police station and public works facility have also been developed to support these uses.

Comprehensive Plan Designations

6. *Community District.* *The Community plan designation includes properties which are primarily developed with public service uses which support all facets of the community. Development includes the fire station, elementary school, community center and corporation/public works facilities. Properties with this designation are primarily owned and administered by the Sunriver Owners Association.*

FINDING: The applicant has requested a legislative text amendment that would permit wireless telecommunications facilities conditionally in the Sunriver Community General District. The Sunriver UUC has four Community zoning districts, which include Community General, Community Recreation (“SUCR”), Community Neighborhood (“SUCN”), and Community Limited (“SUCL”). The Deschutes County Comprehensive Plan addresses all Community Districts as one entity that share purpose and policy. The four Sunriver Community Districts provide public service and support to the Sunriver Resort. These uses include schools, police and fire stations, nature center, recreation facilities, and public works facilities. The applicant indicates that wireless telecommunications facilities exhibits similar characteristics to those uses already permitted in the zone.

3. Section 4.5 Transportation Planning

Future Transportation Needs

The existing privately maintained roads and bicycle/pedestrian paths adequately serve the travel needs of the residents and visitors of Sunriver. The existing roads and pathways provide access to all platted and developed areas within the community. There is no projected need for future roads to serve the anticipated development, except possibly within the Sunriver Business Park. Currently there is only one ingress/egress point from South Century Drive to the Business Park. Future development within the Business Park may warrant an additional entrance or improvements to the existing entrance.

South Century Drive and Cottonwood Road are both operating at levels within their vehicular capacity. In the area between the entrance to the Sunriver Village Mall and the Business Park, the 2009 average daily traffic figures for South Century Drive were approximately 6,748 trips per day. This figure is below the general capacity of 9,600 trips per day. Many of the vehicles traveling this roadway are passing through the community, not necessarily to Sunriver, as this road provides a direct link from Highway 97 to the surrounding rural subdivisions. Cottonwood Road, which only extends between Highway 97 and the community boundary, is not subject to the same volume of pass through traffic that occurs on South Century Drive. Thus, the traffic figures for this roadway are much lower at approximately 3,298 trips per day in 2009.

FINDING: According to Senior Transportation Planning, Peter Russell, no public roads abut the SUCG zone and therefore, there are no County roads directly affected by this proposal. A text amendment must comply with the Transportation Planning Rule (TPR) at Oregon Administrative Rule (OAR) 660-012-0060. Mr. Russell indicates that wireless telecommunications facilities generate almost no traffic once constructed and thus proposed text amendment will not have a significant effect upon the transportation system. Therefore, proposed text amendment will not result in greater impact to the affected roads.

4. Section 4.5 Sunriver Policies

Community District Policies

Policy 4.5.19 *Areas designated community on the comprehensive plan map shall be designated community general, community recreation, community limited or community neighborhood district on the zoning map to reflect a development pattern which is consistent community uses and activities.*

Policy 4.5.20 *Lands designated community shall be developed with uses which support all facets of community needs, be they those of year-round residents or part-time residents and tourists.*

Policy 4.5.21 *Development shall take into consideration the unique physical features of the community and be sensitive to the residential development within which the community areas are interspersed.*

FINDING: The proposed text amendment consistent with these policies. The applicant has requested an amendment to the Deschutes County Code that would permit wireless telecommunications facilities conditionally in the SUCG zoning district. As indicated previously, the Sunriver UUC has four Community zoning districts, which provide public service and support to the Sunriver Resort. The four Community Districts share the same purpose and policies.

According to the Comprehensive Plan, Sunriver had approximately 475 homes with permanent residents in 2010 and about 1,500 housing units for short-term rentals. The Sunriver population fluctuates significantly, with peak tourist months in July and August, and an estimated population of 8,000 to 12,000, which include tourists and year-round and part-time residents.

The DCC provides for three tiers of wireless telecommunications facilities (DCC Section 18.116.250). Tier 1 facilities are permitted outright in most county zones and include co-locating on existing cell towers or on existing vertical structures (e.g. power poles, telephone poles, flagpoles, and buildings). Tier 2 facilities are permitted with site plan review in specific zones such as Rural Service Center, Rural Industrial and Terrebonne and Tumalo Commercial Districts but not the Sunriver UUC zone. Tier 1 and Tier 2 facilities have specific requirements that may include pole type (wood), pole or antenna height, equipment shelter color, and lighting, landscaping, and fencing. Tier 3 facilities are all other facilities that do not qualify as Tier 1 or Tier 2 and are subject to the applicable criteria set forth in DCC Chapter 18.128, Conditional Use. The applicant is requesting Tier 3 facilities be allowed in the SUCG with a conditional use permit.

Among the 18 zoning districts, only two allow wireless telecommunications facilities, Sunriver Utility (SUU) District and Sunriver Forest (SUF) District. The SUU-zoned properties are developed with sewage and water facilities. The SUF-zoned property provides Sunriver Resort with a sewage effluent storage and disposal area.

The applicant limited their proposal to one of the four Sunriver Community zoning districts, the SUCG District. By amending all Sunriver Community zoning districts to allow wireless telecommunications facilities would not be consistent with the community uses and activities associated with each zoning district. In the SUCG, as in the SUCN, the uses permitted outright provide a variety of public service and support to the Sunriver Resort and include the fire station, community center, church, public works facility, and nature center. However, the SUCR limits the permitted uses to those that are specific to the recreational needs of the community, such as park, swimming pool, tennis courts, and ball fields. The SUCL limits uses to open space, picnic tables, and recreational paths. Therefore, the applicant proposed to amend the SUCG, which is most appropriate for the surrounding residential community and, at the same time, the least intrusive. The applicant stated that adding wireless telecommunications facilities to the SUCG will continue to provide, if not enhance, the variety of support services allowed in that zone.

The applicant proposed wireless telecommunications facilities to be permitted conditionally and not a use permitted outright in the SUCG zone. This would allow the Planning Division to review the proposed development under the standards in the County zoning ordinance. Moreover, since SUCG-zoned properties are surrounded primarily by residential development, the Planning Division will provide notice of the proposal to surrounding property owners. With the addition of wireless telecommunications facilities as a use permitted conditionally, the service would engage the community and ultimately provide support to year-round and part-time residents and tourists in Sunriver.

Title 22, Deschutes County Development Procedures Ordinance

A. CHAPTER 22.12. LEGISLATIVE PROCEDURES

1. Section 22.12.010. Hearing Required.

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: The applicant meets this criterion because the Planning Commission reviewed the proposed text amendment and a public hearing was held before the Board on September 24, 2014.

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: The required notices of the September 24, 2014 Board hearing and July 24, 2014 Planning Commission hearing were published in the Bend Bulletin newspaper on July 6, 2014 and September 2, 2014, respectively, and the notices described the proposal. Both publication dates are at least 10 days prior to each 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 was met with notice posted 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: At the discretion of the Planning Director, individual notice was provided to all property owners within 250 feet of those properties zoned SUCG. In addition, notice was provided to the several agencies. This criterion has been met.

- 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 Busch Law Firm, PLLC for AT&T, which paid the required fee. This criterion was 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.*

FINDING: This criterion was met. A public hearing was held on July 24, 2014, before the Deschutes County Planning Commission. The Planning Commission recommended

approval of the text amendment as proposed by staff, and accepted by the applicant. A public hearing was held on September 24, 2014 before 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 proposal was not initiated by the Board. Therefore, this criterion is not applicable.

5. Section 22.12.050. Final Decision.

All legislative changes shall be adopted by ordinance

FINDING: These findings are attached to an ordinance adopting the text amendment. Therefore, this criterion has been met.

IV. PROPOSED TEXT AMENDMENT:

The proposed text amendment is detailed in the ordinance exhibit with additional text identified by underline and deleted text identified by ~~strikethrough~~. Below are explanations of the proposed changes.

Title 18 – Deschutes County Zoning Ordinance Amendment:

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE - SUNRIVER

18.108.120. Community General - CG District.

This section applies to the Sunriver Community General District, within the Sunriver UUC. This amendment will include adding a new subsection (B) to the SUCG zone for conditional uses permitted and relabeling the subsequent sections. Under the new subsection (B), “wireless telecommunications facilities” will be the first use listed. The listing wireless telecommunications facilities include language that is consistent throughout the zoning ordinance and Sunriver UUC.

V. CONCLUSION:

Based on the information provided herein, The Board of County Commissioners approve of the proposed text amendment to Deschutes County Code 18.108.120, Community General – CG District.