

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

“An Ordinance Amending Deschutes County Code
Title 15, Buildings and Construction, Title 17,
Subdivisions, Title 18, Zoning Ordinance, Title 19,
Bend Urban Area Zoning Ordinance, and Title 22,
Procedures Ordinance, to Incorporate Changes to
State and Federal Law, and Provide Clarification of
Existing Regulations, Procedures, and Policies.”

ORDINANCE NO. 2021-013

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File Nos. 247-21-000862-TA) to the Deschutes County Code (“DCC”), Chapter 15.04 – Building and Construction Codes and Regulations, Chapter 17.24 – Final Plat, Chapter 18.04 – Purpose and Definitions, Chapter 18.16 – Exclusive Farm Use Zones, Chapter 18.32 – Multiple Use Agricultural Zone, Chapter 18.36 – Forest Use Zone F1, Chapter 18.40 – Forest Use Zone F2, Chapter 18.67 – Tumalo Rural Community Zoning Districts, Chapter 18.74 – Rural Commercial Zone, Chapter 18.80 – Airport Safety Combining Zone, Chapter 18.84 – Landscape Management Combining Zone, Chapter 18.108 – Urban Unincorporated Community Zone-Sunriver, Chapter 18.116 – Supplementary Provisions, Chapter 18.120 – Exceptions, Chapter 19.76 – Site Plan Review, Chapter 22.04 – Introductions and Definitions, Chapter 22.24 – Land Use Action Hearings; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed amendments on November 18, 2021, and subsequently forwarded a recommendation of Approval to the Deschutes County Board of County Commissioners (“Board”); and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 15, 2021, and concluded that the public will benefit from the proposed changes to Deschutes County Code Chapter Titles 15, 17, 18, 19, and 22;

NOW, THEREFORE,

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

Section 1. AMENDMENT. Deschutes County Code Chapter 15.04, Building and Construction Codes and Regulations, 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 ~~strike through~~.

Section 2. AMENDMENT. Deschutes County Code Chapter 17.24, Final Plat, 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. Deschutes County Code Chapter 18.04, Purpose and Definitions, 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. Deschutes County Code Chapter 18.16, Exclusive Farm Use Zones, 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. Deschutes County Code Chapter 18.32, Multiple Use Agricultural 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. Deschutes County Code Chapter 18.36, Forest Use Zone – F1, 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. Deschutes County Code Chapter 18.40, Forest Use Zone – F2, 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. Deschutes County Code Chapter 18.67, Tumalo Rural Community Zoning Districts, is amended to read as described in Exhibit “H”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

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

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

Section 11. AMENDMENT. Deschutes County Code Chapter 18.84, Landscape Management Combining Zone, is amended to read as described in Exhibit “K”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

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

Section 13. AMENDMENT. Deschutes County Code Chapter 18.116, Supplementary Provisions, is amended to read as described in Exhibit “M”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 14. AMENDMENT. Deschutes County Code Chapter 18.120, Exceptions, is amended to read as described in Exhibit “N”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 15. AMENDMENT. Deschutes County Code Chapter 19.76, Site Plan Review, is amended to read as described in Exhibit "O", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike~~through.

Section 16. AMENDMENT. Deschutes County Code Chapter 22.04, Introductions and Definitions, is amended to read as described in Exhibit "P", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike~~through.

Section 17. AMENDMENT. Deschutes County Code Chapter 22.24, Land Use Action Hearings, is amended to read as described in Exhibit "Q", attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strike~~through.

Section 18. FINDINGS. The Board adopts as its findings Exhibit "R", attached and incorporated by reference herein.


Dated this 5 of JANUARY, 2022

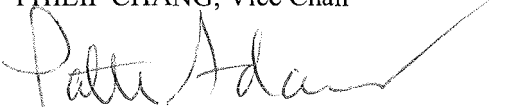
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


ANTHONY DEBONE, Chair


PHILIP CHANG, Vice Chair

ATTEST:


Recording Secretary


PATTI ADAIR

Date of 1st Reading: 15 day of DECEMBER 2021.

Date of 2nd Reading: 5 day of JANUARY, 2022.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Philip Chang	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Patti Adair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 5 day of APRIL, 2022.

CHAPTER 15.04 BUILDING AND CONSTRUCTION CODES AND REGULATIONS

15.04.080 Fire Code; Adopted

15.04.080 Fire Code; Adopted

In accordance with OAR 837-040-0010, ~~the currently adopted 2019~~ edition of the International Fire Code, as published by the International Code Council and as amended by the Office of State Fire Marshal, hereinafter referred to as "fire code," is adopted in its entirety as the fire code of the County and incorporated by reference herein.

HISTORY

Adopted by Ord. 83-056 §6 on 8/3/1983

Amended by Ord. 86-068 §1 on 8/13/1986

Amended by Ord. 90-005 §4 on 1/10/1990

Amended by Ord. 93-006 §1 on 3/3/1993

Amended by Ord. 97-024 §1 on 3/12/1997

Amended by Ord. 2 011-022 §2 on 7/27/2011

Amended by Ord. 2 020-012 §3 on 9/22/2020

Amended by Ord. 2020-007 §4 on 10/27/2020

Amended by Ord. 2021-013 §1 on XX/XX/2021

CHAPTER 17.24 FINAL PLAT

17.24.150 Recording

17.24.150 Recording

- A. No plat shall have any force or effect until it has been recorded. No title to property described in any dedication on the plat shall pass until recording of the plat.
- B. The applicant must present the original approved plat at the time of recording. Prior to submission to the County Clerk of a plat of a County-approved subdivision or partition, the applicant shall provide ~~15 blue line a copies copy~~ of the plat to the planning division and pay the appropriate ~~cartography~~ fee. No plat shall be recorded with the County Clerk unless accompanied by a written statement from the Planning Division that all requirements have been met.
- C. No plat may be recorded unless all city or County approvals required under ORS 92 with respect to land division and surveying and mapping have been obtained. If the plat or the circumstances of its presentation do not allow the Clerk to make this determination, the Clerk may make such inquiry as is necessary to establish that such requirements have been met.
- D. No subdivision plat shall be recorded unless all ad valorem taxes and all special assessments, fees or other charges required by law to be placed upon the tax roll that have become a lien upon the subdivision or that will become a lien upon the subdivision during the tax year have been paid.
- E. No plat shall be recorded unless it is accompanied by a signed statement of water rights and, if there are water rights appurtenant to the property being divided, an acknowledgment of receipt by the Oregon Department of Water Resources of applicant's statement of water rights. This provision shall not apply if the partition or subdivision plat displays the approval of any special district referred to in DCC 17.24.090.
- F. No plat shall be recorded unless it complies with the provisions of DCC 17.24.040 regarding form.
- G. Following submission of the approved plat and upon payment of such recording fees as prescribed by the County, the original shall be recorded in the County Clerk's plat records by scanning and microfilming the plat. The physical copy of the recorded plat shall be released by the County Clerk to the County Surveyor for filing.

HISTORY

Adopted by Ord. PL-14 §4.110 on 11/1/1979

Repealed & Reenacted by Ord. 81-043 §§1, 3, 4.065 on 12/31/1981

Renumbered by Ord. 90-003 §1 on 1/8/1990

Amended by Ord. 93-012 §31 on 8/4/1993

Amended by Ord. 2005-044 §1 on 1/26/2006

Amended by Ord. 2006-007 §4 on 8/29/2006

Amended by Ord. 2020-007 §6 on 10/27/2020

Amended by Ord. 2021-013 §2 on XX/XX/2021

CHAPTER 18.04 TITLE, PURPOSE AND DEFINITIONS

18.04.030 Definitions

18.04.030 Definitions

“Current employment” of land for farm use includes:

- A. Farmland, the operation or use of which is subject to any farm-related government program;
- B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- C. Land planted in orchards or other perennials, other than land specified in D below, prior to maturity;
- D. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- E. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which not currently being used for any economic farm use;
- F. Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed under DCC 18.16.025(J) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under DCC 18.16.030(FE);
- G. Water impoundments lying in or adjacent to and in common ownership with farm use land;
- H. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- I. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer’s immediate family. For the purposes of this section, illness includes injury or infirmity whether or not such illness results in death;
- J. Any land described under ORS 321.267(3) or 321.824(3);
- K. Land use for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and
- L. Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

1. Only the crops of the landowner are being processed;

2. The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowners; or
3. The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

“Facility for the processing of farm products” means a facility for:

A. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

A.B. Slaughtering, processing or selling poultry or poultry products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2)

"Manufactured home" shall have the meaning as set forth in ORS 446.003446.003(24)(a).

“Processing area” means the floor area of a building dedicated to farm product processing. “Processing area” does not include the floor area designated for preparation, storage or other farm use.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
 Amended by Ord. 82-013 §1 on 5/25/1982
 Amended by Ord. 83-037 §2 on 6/1/1983
 Amended by Ord. 83-033 §1 on 6/15/1983
 Amended by Ord. 84-023 §1 on 8/1/1984
 Amended by Ord. 85-002 §2 on 2/13/1985
 Amended by Ord. 86-032 §1 on 4/2/1986
 Amended by Ord. 86-018 §1 on 6/30/1986
 Amended by Ord. 86-054 §1 on 6/30/1986
 Amended by Ord. 86-056 §2 on 6/30/1986
 Amended by Ord. 87-015 §1 on 6/10/1987
 Amended by Ord. 88-009 §1 on 3/30/1988
 Amended by Ord. 88-030 §3 on 8/17/1988
 Amended by Ord. 88-030 §4 on 8/17/1988
 Amended by Ord. 89-004 §1 on 3/24/1989
 Amended by Ord. 89-009 §2 on 11/29/1989
 Amended by Ord. 90-014 §2 on 7/12/1990
 Amended by Ord. 91-002 §11 on 2/6/1991
 Amended by Ord. 91-005 §1 on 3/4/1991
 Amended by Ord. 92-025 §1 on 4/15/1991
 Amended by Ord. 91-020 §1 on 5/29/1991
 Amended by Ord. 91-038 §§3 and 4 on 9/30/1991
 Amended by Ord. 92-004 §§1 and 2 on 2/7/1992
 Amended by Ord. 92-034 §1 on 4/8/1992
 Amended by Ord. 92-065 §§1 and 2 on 11/25/1992
 Amended by Ord. 92-066 §1 on 11/25/1992
 Amended by Ord. 93-002 §§1, 2 and 3 on 2/3/1993
 Amended by Ord. 93-005 §§1 and 2 on 4/21/1993
 Amended by Ord. 93-038 §1 on 7/28/1993
 Amended by Ord. 93-043 §§1, 1A and 1B on 8/25/1993
 Amended by Ord. 94-001 §§1, 2, and 3 on 3/16/1994
 Amended by Ord. 94-008 §§1, 2, 3, 4, 5, 6, 7 and 8 on 6/8/1994

Amended by Ord. 94-041 §§2 and 3 on 9/14/1994
Amended by Ord. 94-038 §3 on 10/5/1994
Amended by Ord. 94-053 §1 on 12/7/1994
Amended by Ord. 95-007 §1 on 3/1/1995
Amended by Ord. 95-001 §1 on 3/29/1995
Amended by Ord. 95-075 §1 on 11/29/1995
Amended by Ord. 95-077 §2 on 12/20/1995
Amended by Ord. 96-003 §2 on 3/27/1996
Amended by Ord. 96-082 §1 on 11/13/1996
Amended by Ord. 97-017 §1 on 3/12/1997
Amended by Ord. 97-003 §1 on 6/4/1997
Amended by Ord. 97-078 §5 on 12/31/1997
Amended by Ord. 2001-037 §1 on 9/26/2001
Amended by Ord. 2001-044 §2 on 10/10/2001
Amended by Ord. 2001-033 §2 on 10/10/2001
Amended by Ord. 2001-048 §1 on 12/10/2001
Amended by Ord. 2003-028 §1 on 9/24/2003
Amended by Ord. 2004-001 §1 on 7/14/2004
Amended by Ord. 2004-024 §1 on 12/20/2004

Amended by Ord. 2005-041 §1 on 8/24/2005
Amended by Ord. 2006-008 §1 on 8/29/2006
Amended by Ord. 2007-019 §1 on 9/28/2007
Amended by Ord. 2007-020 §1 on 2/6/2008
Amended by Ord. 2007-005 §1 on 2/28/2008
Amended by Ord. 2008-015 §1 on 6/30/2008
Amended by Ord. 2008-007 §1 on 8/18/2008
Amended by Ord. 2010-018 §3 on 6/28/2010
Amended by Ord. 2010-022 §1 on 7/19/2010
Amended by Ord. 2011-009 §1 on 10/17/2011
Amended by Ord. 2012-004 §1 on 4/16/2012
Amended by Ord. 2012-007 §1 on 5/2/2012
Amended by Ord. 2013-008 §1 on 7/5/2013
Amended by Ord. 2014-009 §1 on 8/6/2014
Amended by Ord. 2015-004 §1 on 4/22/2015
Amended by Ord. 2016-015 §1 on 7/1/2016
Amended by Ord. 2016-026 §1 on 11/9/2016
Amended by Ord. 2016-006 §1 on 2/27/2017
Amended by Ord. 2017-015 §1 on 11/1/2017
Repealed by Ord. 2018-005 §8 on 10/10/2018
Amended by Ord. 2018-006 §4 on 11/20/2018
Amended by Ord. 2019-010 §1 on 5/8/2019
Amended by Ord. 2019-016 §1 on 2/24/2020
Amended by Ord. 2020-001 §1 on 4/21/2020
Amended by Ord. 2020-010 §1 on 7/3/2020
Amended by Ord. 2020-007 §7 on 10/27/2020
Amended by Ord. 2021-013 §3 on XX/XX/2021

CHAPTER 18.16 EXCLUSIVE FARM USE ZONES

18.16.023 Lawfully Established Dwelling Replacement

18.16.025 Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable

18.16.050 Standards For Dwellings In The EFU Zones

18.16.023 Lawfully Established Dwelling Replacement

A lawfully established dwelling may be altered, restored or replaced under DCC 18.16.020(J) above if, when an application for a permit is submitted, the County finds to its satisfaction, based on substantial evidence that:

- A. The dwelling to be altered, restored or replaced met the following when an application for a permit is submitted:
 1. The dwelling has, or formerly had:
 - a. Intact exterior walls and roof structure;
 - b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - c. Interior wiring for interior lights;
 - d. A heating system;
 2. In addition to the provisions of subsection (A)(1), the dwelling to be replaced meets one of the following conditions: The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and
 - a. If the dwelling was removed, destroyed or demolished:
 - i. The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
 - ii. Any removal, destruction or demolition occurred on or after January 1, 1973;
 - b. If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
 - c. A dwelling not described in subparagraph (a) or (b) of this paragraph was assessed as a dwelling for purposes of ad valorem taxation:
 - i. For the previous five property tax years; or
 - ii. From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010 (Definitions of "land" and "real property" for state property tax laws).
 3. ~~Notwithstanding (2) above, if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling unit until such time as the value of the dwelling was eliminated:~~
 - a. ~~The destruction (i.e. by fire or natural hazard), or demolition in the case of restoration of the dwelling; or~~
 - b. ~~The applicant establishes to the satisfaction of the County that the dwelling was~~

~~improperly removed from the tax roll by a person other than the current owner: "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.~~

B. For replacement of a lawfully established dwelling under DCC 18.16.020(J):

1. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 and DCC Chapter 15.04; or
 - b. If the dwelling to be replaced is, in the discretion of the County, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the County that is not less than 90 days after the replacement permit is issued; and
 - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must first obtain approval from the County for the new location.
2. The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished or converted.
3. Deed Restrictions.
 - a. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the County a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel.
 - b. The restriction imposed is irrevocable unless the County Planning Director, or the Director's designee, places a statement of release in the deed records of the County to the effect that the provisions of ~~2013-2019~~ Oregon Laws, chapter ~~462440~~, section ~~2-1~~ and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
4. The replacement dwelling:
 - ~~a. May be sited on any part of the same lot or parcel; and~~
 - ~~b. a. ___~~ Must comply with applicable siting standards such as minimum setbacks. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - ~~e. b. ___~~ Must comply with applicable building codes, plumbing codes, sanitation codes and other requirements related to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

~~C. The siting standards of DCC 18.16.023(D) apply when a dwelling under DCC 18.16.020(J) qualifies for replacement because the dwelling:~~

- ~~1. Formerly had the features described in DCC 18.16.023(A)(1)(a) through (d);~~
- ~~2. Was removed from the tax roll as described in DCC 18.16.023(A)(3); or~~
- ~~3. Had a permit that expired as described under DCC 18.16.023(E)(2)~~

~~D.C.~~ The replacement dwelling ~~per DCC 18.16.023(C)~~ must be sited on the same lot or parcel:

1. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
2. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
- ~~3. Replacement dwellings that currently have the features described in DCC 18.16.023(A)(1)(a) through (d) and that have been on the tax roll as described in 18.16.023(A)(2) may be sited on any part of the same lot or parcel.~~

~~E.D.~~ A replacement dwelling permit that is issued under DCC 18.16.020(J):

1. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
 - a. Formerly had the features described in DCC 18.16.023(A)(1)(a) through (d); or
 - b. Is eligible for replacement under DCC 18.16.023(A)(2)(b) ~~Was removed from the tax roll as described in DCC 18.16.023(A)(3).~~
2. Is not subject to the time to act limits of ORS 215.417; ~~and~~
- ~~3. If expired before January 1, 2014, shall be deemed to be valid and effective, if, before January 1, 2015, the holder of the permit:~~
 - ~~a. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and~~
 - ~~b. Causes to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished or converted.~~

~~F.E.~~ A temporary residence approved under DCC 18.116.080 or 18.116.090 is not eligible for replacement under this section.

HISTORY

Adopted by Ord. 2014-010 §1 on 4/28/2014

Amended by Ord. 2021-013 §4 on XX/XX/2021.

18.16.025 Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC 18.16.050.
- B. A relative farm assistance dwelling, subject to DCC 18.16.050.
- C. Religious institutions or assemblies and cemeteries in conjunction with religious institutions or assemblies consistent with ORS 215.441 and OAR 660-033-0130(2) on non-high value farmland.

- D. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use, subject to Oregon Administrative Rules 660-033-0130.
- E. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:
 - 1. DCC 18.16.038(A); or
 - 2. DCC 18.16.038(E) if the utility facility is an associated transmission line, as defined in ORS 469.300.
- F. Winery, as described in ORS 215.452.
- G. Farm stands, subject to DCC 18.16.038.
- H. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may be reasonably necessary.
- I. A facility for the processing of farm crops, ~~subject to the following standards: or for the production of biofuel as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038.~~
 - 1. The facility:
 - a. Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. Siting standards shall not be applied in a manner that prohibits the siting of a facility for the processing of farm products; or
 - b. Exception: A facility which uses less than 2,500 square feet for its processing area is exempt from any applicable siting standards. However, applicable standards and criteria pertaining to floodplains, geologic hazards, beach and dune hazards, airport safety, tsunami hazards and fire siting standards shall apply.
 - 2. The County shall not approve any division of a lot or parcel that separates a facility for the processing of farm products from the farm operation on which it is located.
 - 1. ~~___ If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use.~~
 - 2. ~~A processing facility or establishment must comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.~~
 - 3. ~~The County shall not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.~~
- J. Agri-tourism and other commercial events and activities subject to DCC 18.16.042.
- K. Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, ~~2013~~2019, when:
 - 1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
 - 2. The number of dogs participating in a testing trial does not exceed 60 and the number of

testing trials to be conducted on-site does not exceed four per calendar year.

HISTORY

Adopted by Ord. 2004-001 §2 on 7/14/2004

Amended by Ord. 2008-001 §2 on 5/6/2008

Amended by Ord. 2009-014 §1 on 6/22/2009

Amended by Ord. 2010-022 §2 on 7/19/2010

Amended by Ord. 2012-004 §2 on 4/16/2012

Amended by Ord. 2012-007 §2 on 5/2/2012

Amended by Ord. 2014-010 §1 on 4/28/2014

Amended by Ord. 2016-015 §2 on 7/1/2016

Amended by Ord. 2020-001 §3 on 4/21/2020

Amended by Ord. 2021-004 §1 on 5/27/2021

Amended by Ord. 2021-013 §4 on XX/XX/2021

18.16.030 Conditional Uses Permitted; High Value And Non-High Value Farmland

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

- A. Nonfarm dwelling.
- B. Lot of record dwelling.
- C. Residential home or facility, as defined in DCC 18.04.030, in existing dwellings.
- D. A hardship dwelling, ~~which can include one manufactured dwelling or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident, as described in DCC 18.16.050(H).~~
- E. Commercial activities that are in conjunction with farm use, but not including the processing of farm crops as described in DCC 18.16.025.
- F. Operations conducted for: Mining and processing of geothermal resources as defined by ORS 522.005, and Mining and processing of natural gas or oil as defined by ORS 520.005, not otherwise permitted under DCC 18.16.020.
- G. Expansion of an existing private park, playground, hunting and fishing preserve and campground on the same tract as the existing use.
- H. Public park and playground consistent with the provisions of ORS 195.120, and including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- I. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
 - 1. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006.
 - 2. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
- J. Transmission towers over 200 feet in height.

K. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260, and OAR 660-033-0130), for the purpose of generating power for public use by sale, not including wind power generation facilities.

L. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

M. Home Occupation, subject to DCC 18.116.280.

1. The home occupation shall:

- a. be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;
- b. be operated by a resident or employee of a resident of the property on which the business is located; and
- c. employ on the site no more than five full-time or part-time persons.

2. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zone.

N. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 213.203(2).

1. The primary processing of a forest product, as used in DCC 18.16.030, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.
2. Forest products, as used in DCC 18.16.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

O. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.

P. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.

Q. Improvement of public road and highway-related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels.

R. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.

1. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
2. The county shall provide notice of all applications under this section to the State Department of Agriculture.
3. Notice shall be provided in accordance with DCC Title 22, but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

S. Room and board arrangements for a maximum of five unrelated persons in an existing residence. If approved, this use is subject to the recording of the statement listed in DCC 18.16.020(J)(1).

- T. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland.
- U. Roads, highways and other transportation facilities, and improvements not otherwise allowed under DCC 18.16, if an exception to Goal 3, Agricultural Lands, and to any other applicable goal is first granted under state law. Transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
- V. 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.
- W. A living history museum.
- X. Operations for the extraction and bottling of water.
- Y. Transportation improvements on rural lands allowed by OAR 660-012-0065.
- Z. Expansion of existing county fairgrounds and activities relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- AA. Extended outdoor mass gatherings, subject to DCC 8.16.
- AB. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- AC. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130.
- AD. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130. On high-value farmland only, photovoltaic solar power generation facilities are subject to the provisions in ORS 215.447.
- AE. Commercial dog boarding kennel, or dog training classes or testing trials that exceed the standards under DCC 18.16.025(K), subject to DCC 18.16.040(A)(1 and 2).
- AF. Equine and equine-affiliated therapeutic and counseling activities, provided:
 1. The activities are conducted in existing buildings that were lawfully constructed on the property before the effective date of January 1, 2019 or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and
 2. All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
 Amended by Ord. 83-028 §1 on 6/1/1983
 Amended by Ord. 86-018 §3 on 6/30/1986
 Amended by Ord. 87-013 §1 on 6/10/1987
 Amended by Ord. 90-018 §1 on 5/16/1990
 Amended by Ord. 90-014 §§23 and 31 on 7/12/1990
 Amended by Ord. 91-005 §5 on 3/4/1991
 Amended by Ord. 91-014 §1 on 3/13/1991
 Amended by Ord. 91-020 §1 on 5/29/1991
 Amended by Ord. 91-038 §2 on 9/30/1991
 Amended by Ord. 92-065 §3 on 11/25/1992
 Amended by Ord. 94-008 §9 on 6/8/1994
 Amended by Ord. 95-007 §11 on 3/1/1995
 Amended by Ord. 95-025 §1 on 3/3/1995

Amended by Ord. 98-030 §1 on 5/13/1998
Amended by Ord. 2001-016 §2 on 3/28/2001
Amended by Ord. 2001-039 §1 on 12/12/2001
Amended by Ord. 2004-001 §2 on 7/14/2004
Amended by Ord. 2008-001 §2 on 5/6/2008
Amended by Ord. 2009-014 §1 on 6/22/2009
Amended by Ord. 2012-007 §2 on 5/2/2012
Amended by Ord. 2014-010 §1 on 4/28/2014
Amended by Ord. 2018-006 §5 on 11/20/2018
Amended by Ord. 2021-013 §4 on XX/XX/2021

18.16.050 Standards For Dwellings In The EFU Zones

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

A. Farm-related dwellings on non-high value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.025_030(A), may be approved if it satisfies any of the alternative tests set forth below:

1. Acreage test.

a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:

(1) The parcel on which the dwelling will be located is at least:

(A) One hundred sixty acres and not in the Horse Ridge East subzone;
or

(B) Three hundred twenty acres in the Horse Ridge East subzone;

(2) The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan;

(3) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;

(4) There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001.

2. Median acreage/gross sales test.

(1) On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;

- (B) The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a) (1);
- (C) The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(2). If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to establishment of the farm use capable of meeting the median income test.
- (D) The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
- (E) There is no other dwelling on the subject tract(1), except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001; and
- (F) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

(2)For the purpose of calculating appropriate tract sizes and gross incomes to satisfy DCC 18.16.050(A)(2)(a)(1) and (2), the County will utilize the methodology contained in Oregon Administrative Rules 660 33 135(3) using data on gross sales per acre tabulated by LCDC pursuant to Oregon Administrative Rules 660 33 135(4).

3. Gross annual income test.

- (1)On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - (A) The subject tract is currently employed for a farm use, and that the farm operator earned \$40,000 in gross annual revenue in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years.
 - (B) There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
 - (C) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in DCC 18.16.050(A)(3)(a)(1); and
- (2)In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract.
- (3) Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.
- (4)Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

(5) Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk or counties where the property subject to the covenants, conditions and restrictions is located.

(A) The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:

- (A) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed under ORS Chapter 215; and
- (B) The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- (C) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
- (D) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

B. Farm related dwellings on high value farmland. On land identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:

1. The subject lot or parcel is currently employed for the farm use as defined in DCC 18.04.030, and that the farm operator earned at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned by the farm operator in the best three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract;
2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the revenue under DCC 18.16.050(B)(1);
4. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.
5. When a farm or ranch operation has lots or parcels in both "western" and "eastern" Oregon as defined in OAR 660-033-0020, lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.
6. Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

7. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16 has been recorded with the county clerk. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:

- (1) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
- (2) The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

C. Accessory dwelling. A dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:

1. The accessory dwelling meets the following criteria:

- (1) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
- (2) The accessory farm dwelling will be located:
 - (A) On the same lot or parcel as the primary farm dwelling; or
 - (B) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (C) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured home and a deed restriction substantially in compliance with the form set forth in Exhibit A to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured home may remain if it is reapproved under DCC 18.16.050; or
 - (D) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under DCC 18.16.065 and the lot or parcel complies with the gross farm income requirements in DCC 18.16.050(A)(3) or (B)(1), whichever is applicable; and
- (3) There is no other dwelling on land zoned EFU owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

2. The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following:

- (1) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced

\$40,000 in gross annual sales in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract; or

(2) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. Gross revenue shall be calculated by deducting the cost of purchased livestock from the total gross revenue attributed to the tract; and

3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).

4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to DCC 18.16.050(G).

D. Relative farm help dwelling.

1. A dwelling listed in DCC 18.16.025(B) is allowed when:

(1) The subject tract is a commercial farming operation.

(2) The dwelling is a manufactured home and is sited in accordance with DCC 18.116.070, or is a site-built home;

(3) The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a relative of the farm operator or farm operator's spouse, including a grandparent, step-grandparent, grandchild, parent, step-parent, child, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.

(A) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(B) Prior conditions of approval for the subject land and dwelling remain in effect.

(C) For purposes of this subsection, "Foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

(4) The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.

(5) Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator

continues to play in the management and farm use of the farm.

2. A manufactured home permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured home shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
3. A dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.
5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

E. Lot of record dwelling on non-high value farmland.

1. A lot of record dwelling may be approved on a pre-existing lot or parcel on non-high value farmland when all of the following requirements are met:
 - (1)The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 - (A) Prior to January 1, 1985; or
 - (B) By devise or by intestate succession from a person who acquired and owned continuously the lot or parcel prior to January 1, 1985.
 - (2)The tract on which the dwelling will be sited does not include a dwelling.
 - (3) For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
 - (4)If the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 - (5)The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
 - (6) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of the tract;
2. For purposes of DCC 18.16.050(E), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
3. For purposes of DCC 18.16.050(E), the date of creation and existence means that, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the

effect of which is to qualify a lot, parcel or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

F. Lot of record dwelling on high-value farmland.

1. A lot of record dwelling on a pre-existing lot or parcel will be approved on high value farmland when all of the following requirements are met:
 - (1)The requirements set forth in DCC 18.16.050(E)(1)(a) through (f), as determined by the County; and
 - (2)The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by the County hearings officer.
2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall notify the State Department of Agriculture at least 20 calendar days prior to the public hearing under DCC 18.16.050(F)(1)(b).
3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.
4. For purposes of DCC 18.16.050(F), the date of creation and existence means that, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

G. Nonfarm dwelling.

1. One single-family dwelling, including a manufactured home in accordance with DCC 18.116.070, not provided in conjunction with farm use, may be permitted on an existing lot or parcel subject to the following criteria:
 - a. The Planning Director or Hearings Body shall make findings that:
 - (1) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.
 - (2) The proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
 - (3) The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
 - (4) The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm,

feed lot or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm-dwelling or the agriculture of the area.

- (5) Road access, fire and police services and utility systems (i.e., electrical and telephone) are adequate for the use.
- (6) The nonfarm dwelling shall be located on a lot or parcel created prior to January 1, 1993, or was created or is being created as a nonfarm parcel under the land division standards in DCC 18.16.055(B) or (C).

2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:

(1) A lot or parcel or a portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.

(2) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.

(3) If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

3. Loss of tax deferral. Pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the parcel upon which the dwelling is proposed has been disqualified under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or

321.805 to 321.855 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

H. Temporary hardship dwelling.

1. A temporary hardship dwelling listed in DCC 18.16.030 is allowed under the following conditions:
 - (1)The dwelling is an existing building, or is a manufactured home or recreational vehicle that is used in conjunction with an existing dwelling on the lot or parcel. For the purposes of this section, "existing" means the building was in existence on or before March 29, 2017;
 - (2)The manufactured home or recreational vehicle would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident. The manufactured dwelling shall be removed or demolished within three months of the date the hardship no longer exists. The recreational vehicle shall not be occupied once the term of the medical hardship is completed, except as allowed under DCC 18.116.095. A temporary residence approved under this section is not eligible for replacement under DCC 18.16.020(J);
 - (3) The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and
 - (4)The temporary manufactured home uses the same subsurface sewage disposal system used by the existing dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
 - (5)If a recreational vehicle is used as a medical hardship dwelling, it shall be required to have a bathroom, and shall meet the minimum setbacks established under DCC 18.16.070.
2. Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090 and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.
3. As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
4. As used in DCC 18.16.050(H), the term "relative" means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, sibling, step-sibling, niece, nephew, uncle, aunt, or first cousin of the existing resident.
5. The proposed hardship dwelling or recreational vehicle shall meet the criteria under DCC 18.16.040(A)(1-2) and DCC 18.16.020(J)(1).

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
 Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991
 Amended by Ord. 91-038 §§1 and 2 on 9/30/1991
 Amended by Ord. 92-065 §3 on 11/25/1992
 Amended by Ord. 94-026 §1 on 5/11/1994
 Amended by Ord. 95-007 §15 on 3/1/1995
 Amended by Ord. 98-030 §1 on 5/13/1998
 Amended by Ord. 98-033 §1 on 12/2/1998
 Amended by Ord. 2004-001 §2 on 7/14/2004
 Amended by Ord. 2004-013 §2 on 9/21/2004
 Amended by Ord. 2004-020 §1 on 10/13/2004
 Amended by Ord. 2008-001 §2 on 5/6/2008
 Amended by Ord. 2009-014 §1 on 6/22/2009
 Amended by Ord. 2012-007 §2 on 5/2/2012
 Amended by Ord. 2014-010 §1 on 4/28/2014

Amended by Ord. 2018-006 §5 on 11/20/2018
Amended by Ord. 2021-013 §4 on XX/XX/2021

CHAPTER 18.32 MULTIPLE USE AGRICULTURAL ZONE; MUA
18.32.030 Conditional Uses Permitted

18.32.030 Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

- A. Public use.
- B. Semipublic use.
- C. Commercial activities in conjunction with farm use. The commercial activity shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining County.
- D. Dude ranch.
- E. Kennel and/or veterinary clinic.
- F. Guest house.
- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.
- H. Exploration for minerals.
- I. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.
- J. Personal use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. No aircraft may be based on a personal use landing strip other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use landing strip lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- K. Golf courses.
- L. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
- M. A facility for primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in DCC 18.32.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.32.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Destination resorts.
- O. Planned developments.
- P. Cluster developments.

- Q. Landfills when a written tentative approval by the Department of Environmental Quality (DEQ) of the site is submitted with the conditional use application.
- R. Time share unit or the creation thereof.
- S. Hydroelectric facility, subject to DCC 18.116.130 and 18.128.260.
- T. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland cement concrete, when such uses are in conjunction with the maintenance or construction of public roads or highways.
- U. Bed and breakfast inn.
- V. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.
- W. Religious institutions or assemblies, subject to DCC 18.124 and 18.128.080.
- X. Private or public schools, including all buildings essential to the operation of such a school.
- Y. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.
- Z. Cemetery, mausoleum or crematorium.
- AA. Commercial horsestables.
- AB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- AC. Manufactured home park or recreational vehicle park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL 15 in 1979 and being operated as of June 12, 1996, as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- AD. A new manufactured home/recreational vehicle park, subject to Oregon Administrative Rules 660-004-0040(8)(g)~~660-004-0040(7)(g)~~ that:
 1. Is on property adjacent to an existing manufactured home/recreational vehicle park;
 2. Is adjacent to the City of Bend Urban Growth Boundary; and
 3. Has no more than 10 dwelling units.
- AE. The full or partial conversion from a manufactured home park or recreational vehicle park described in DCC 18.32.030 (CC) to a manufactured home park or recreational vehicle park on the same parcel, as configured on June 12 1996.
- AF. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- AG. Guest lodge.
- AH. 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.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
 Amended by Ord. 80-206 §3 on 10/13/1980

Amended by Ord. 83-033 §2 on 6/15/1983
Amended by Ord. 86-018 §7 on 6/30/1986
Amended by Ord. 90-014 §§27 and 35 on 7/12/1990
Amended by Ord. 91-002 §7 on 2/6/1991
Amended by Ord. 91-005 §§19 and 20 on 3/4/1991
Amended by Ord. 91-020 §1 on 5/29/1991
Amended by Ord. 91-038 §1 on 9/30/1991
Amended by Ord. 92-055 §2 on 8/17/1992
Amended by Ord. 93-043 §§4A and B on 8/25/1993
Amended by Ord. 94-008 §11 on 6/8/1994
Amended by Ord. 94-053 §2 on 12/7/1994
Amended by Ord. 96-038 §1 on 6/12/1996
Amended by Ord. 97-017 §2 on 3/12/1997
Amended by Ord. 97-029 §2 on 5/14/1997
Amended by Ord. 97-063 §3 on 11/12/1997
Amended by Ord. 2001-016 §2 on 3/28/2001
Amended by Ord. 2001-039 §2 on 12/12/2001
Amended by Ord. 2004-002 §4 on 4/28/2004
Amended by Ord. 2009-018 §1 on 11/5/2009
Amended by Ord. 2015-002 §1 on 7/8/2015
Amended by Ord. 2015-002 §1 on 7/8/2015
Amended by Ord. 2016-015 §3 on 7/1/2016
Amended by Ord. 2020-001 §4 on 4/21/2020
Amended by Ord. 2021-004 §2 on 5/27/2021
Amended by Ord. 2021-013 §5 on XX/XX/2021

CHAPTER 18.36 FOREST USE ZONE; F-1
18.36.060 Siting Of Dwellings And Structures

18.36.050 Standards For Single-Family Dwellings

A. General provisions.

1. Dwellings listed as a conditional use under DCC 18.36.050 shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.36.050(B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules chapter 629).
 - (1) For purposes of DCC 18.36.050, evidence of a domestic water supply means:
 - (A) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (B) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.
 - e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
2. In addition, dwellings listed as a conditional use under DCC 18.36.030(Y) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.36.040;

- b. The siting criteria set forth in DCC 18.36.060;
- c. The fire siting standards set forth in DCC 18.36.070;
- d. The fire safety design standards for roads set forth in DCC 18.36.080;
- e. The stocking requirements set forth in DCC 18.36.085, if applicable; and
- f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.

3. Dwellings in forest zones shall not be subject to conditional use standards.

4. Approval of a dwelling in the forest zone under DCC Chapter 18.36 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forestry practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Lot of Record Dwelling. For approval under DCC 18.36.050(B), a single family dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985 and was acquired and owned continuously by the present owner either prior to January 1, 1985 or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
2. For the purposes of DCC 18.36.050(B), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
3. The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be a:
 - a. United States Bureau of Land Management (BLM) road, or
 - b. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
4. For the purposes of DCC 18.36.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
- C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.36.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.
1. A deed restriction shall be filed pursuant to DCC 18.36.140 for all tracts that are used to meet the acreage requirements of this subsection.
 2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.
- D. Template Dwelling. For approval under DCC 18.36.050(D), a single-family dwelling shall meet the following requirements:
1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:
 - (1) As an exception to DCC 18.36.050(D)(1)(d), prior to November 1, 2023, a single-family dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract.
 - 1.2 The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
 - a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 - (1) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - (1) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

- c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
 - (1) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
- ~~d. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.~~

2. 3. Requirements of Applying Template:

- a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.
- b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.
- a.c. If a tract 60 acres or larger described in DCC 18.36.050(D) abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream.
- b.d. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:
 - (1) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;
 - (2) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- e.e. If a tract reviewed under DCC 18.36.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
 Amended by Ord. 92-025 §2 on 4/15/1991
 Amended by Ord. 91-020 §1 on 5/29/1991
 Amended by Ord. 94-038 §1 on 10/5/1994
 Amended by Ord. 2003-007 §1 on 3/26/2003
 Amended by Ord. 2012-007 §3 on 5/2/2012
 Amended by Ord. 2021-013 §6 on XX/XX/2021

CHAPTER 18.40 FOREST USE ZONE; F-2

18.40.050 Standards For Single-Family Dwellings

18.40.050 Standards For Single-Family Dwellings

A. General Provisions.

1. Dwellings listed as a conditional use under DCC 18.40.030(X) shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.40.050(B) (lot of record dwelling), DCC 18.40.050(C) (large tract dwelling), or DCC 18.40.050(D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules Chapter 629).

For purposes of DCC 18.40.050, evidence of a domestic water supply means:

- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (2) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (3) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.
- e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

2. In addition, dwellings listed as a conditional use under DCC 18.40.030(X) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.40.040;
 - b. The siting criteria set forth in DCC 18.40.060;

- c. The fire siting standards set forth in DCC 18.40.070;
 - d. The fire safety design standards for roads set forth in DCC 18.40.080;
 - e. The stocking requirements set forth in DCC 18.40.085, if applicable; and
 - f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.
3. Dwellings in forest zones shall not be subject to conditional use standards.
 4. Approval of a dwelling in the forest zone under DCC Chapter 18.40 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- B. Lot of Record Dwelling. For approval under DCC 18.40.050, a single-family dwelling shall meet the following requirements:
1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985 and was acquired and owned continuously by the present owner either prior to January 1, 1985 or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. For the purposes of DCC 18.40.050, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 3. The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be:
 - a. a United States Bureau of Land Management (BLM) road; or
 - b. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
 4. For the purposes of DCC 18.40.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
 5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
 6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
- C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.40.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.
1. A deed restriction shall be filed pursuant to DCC 18.40.140 for all tracts that are used to meet the acreage requirements of this subsection.
 2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.
- D. Template Dwelling. For approval under DCC 18.40.050(D), a single-family dwelling shall meet the following requirements:
1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:
 - (1) As an exception to DCC 18.40.050(D)(1)(d), prior to November 1, 2023, a single-family dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract,
 - 4.2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
 - a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 - (1) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - (1) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

- c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
- (1) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (2) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

2.3. Requirements of Applying Template:

a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.

a.b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.

b.c. Except as provided by subsection (ed) of this section, if the tract described in DCC 18.40.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

e.d. (1) If a tract 60 acres or larger described in DCC 18.40.050(D) abuts a road or perennial stream, the measurement shall be made in accordance with subsection (bc) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and;

(A) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream;
or

(B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

(2) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 92-025 §3 on 4/15/1991

Amended by Ord. 91-020 §1 on 5/29/1991

Amended by Ord. 94-038 §2 on 10/5/1994

Amended by Ord. 2003-007 §2 on 3/26/2003

Amended by Ord. 2012-007 §4 on 5/2/2012

Amended by Ord. 2018-006 §7 on 11/20/2018

Amended by Ord. 2021-013 §7 on XX/X/2021

CHAPTER 18.67 TUMALO RURAL COMMUNITY ZONING DISTRICTS

18.67.020 Residential (TuR) 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. Religious institutions or assemblies.
4. Cemetery.
5. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
6. Public or private school.
7. Park.

8. Public or semi-public building.
9. Utility facility.
10. 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.

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(~~GD~~)(1) shall apply.

E. 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(E)(4).
3. Rear Yard. The minimum rear yard shall be 20 feet, subject to DCC 18.67.020(E)(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.

HISTORY

Adopted by Ord. 97-033 §2 on 6/25/1997

Amended by Ord. 97-063 §3 on 11/12/1997
Amended by Ord. 2001-016 §2 on 3/28/2001
Amended by Ord. 2001-039 §8 on 12/12/2001
Amended by Ord. 2004-002 §17 on 4/28/2004
Amended by Ord. 2020-001 §8 on 4/21/2020
Amended by Ord. 2020-010 §4 on 7/3/2020
Amended by Ord. 2021-013 §8 on XX/XX/2021

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. Religious institutions or assemblies.
 2. Bed and breakfast inn.
 3. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.

4. Park.
 5. Public or semi-public building.
 6. Utility facility.
 7. Water supply or treatment facility.
 8. 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.
 9. 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.
 10. 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 retailing, subject to the provisions of DCC 18.116.330.
 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. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C) (~~4410~~).
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.

HISTORY

Adopted by Ord. 97-033 §2 on 6/25/1997

Amended by Ord. 97-063 §3 on 11/12/1997

Amended by Ord. 2000-033 §11 on 12/6/2000

Amended by Ord. 2001-016 §2 on 3/28/2001

Amended by Ord. 2001-039 §8 on 12/12/2001

Amended by Ord. 2004-002 §19 on 4/28/2004

Amended by Ord. 2004-013 §7 on 9/21/2004

Amended by Ord. 2015-004 §5 on 4/22/2015

Amended by Ord. 2016-015 §6 on 7/1/2016

Amended by Ord. 2020-001 §8 on 4/21/2020

Amended by Ord. 2020-010 §4 on 7/3/2020

Amended by Ord. 2021-004 §4 on 5/27/2021

Amended by Ord. 2021-013 §8 on XX/XX/2021

CHAPTER 18.74 RURAL COMMERCIAL ZONE

18.74.020 Uses Permitted; Deschutes Junction And Deschutes River Woods Store

18.74.020 Uses Permitted; Deschutes Junction And Deschutes River Woods Store

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

1. Single-family dwelling.
2. Manufactured home subject to DCC 18. 1 16. 070.
3. Two-family dwelling.
4. Type 1 Home Occupation, subject to DCC 18. 1 16. 280.
5. Agricultural uses.
6. Class I and II road or street project subject to approval as part of a land partition or subdivision, or subject to the standards and criteria established in DCC 18. 116. 230.
7. Class III road or street project.
8. A lawfully established use existing as of 11/ 05/ 02, the date this chapter was adopted, not otherwise permitted by this chapter.

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 18.428~~124~~124:

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.
- C. 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.
- D. 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. Religious institutions or assemblies.
 - e. 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.

HISTORY

Adopted by Ord. 2002-019 §2 on 8/7/2002
Amended by Ord. 2004-002 §20 on 4/28/2004
Amended by Ord. 2008-008 §1 on 3/18/2008
Amended by Ord. 2015-004 §7 on 4/22/2015
Amended by Ord. 2016-015 §7 on 7/1/2016
Amended by Ord. 2020-001 §9 on 4/21/2020
Amended by Ord. 2020-010 §5 on 7/3/2020
Amended by Ord. 2021-013 §9 on XX/XX/2021.

CHAPTER 18.80 AIRPORT SAFETY COMBINING ZONE; A-S

18.80.044 Land Use Compatibility

18.80.044 Land Use Compatibility

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body. [ORS 836.619; ORS 836.623(1); OAR 660-013-0080]

- A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 DNL, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, religious institutions or assemblies, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 DNL. [NOTE: FAA Order 5100.38D A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]
- B. Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.
- D. Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.
- E. Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be

conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.

F. Limitations and Restrictions on Allowed Uses in the RPZ, Transitional Surface, Approach Surface, and Airport Direct and Secondary Impact Areas.

For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Repealed & Reenacted by Ord. 91-020 §1 on 5/29/1991

Amended by Ord. 2001-001 §2 on 1/22/2001

Amended by Ord. 2018-006 §10 on 11/20/2018

Amended by Ord. 2020-001 §10 on 4/21/2020

Amended by Ord. 2020-007 §12 on 10/27/2020

Amended by Ord. 2021-013 §10 on XX/XX/2021

CHAPTER 18.84 LANDSCAPE MANAGEMENT COMBINING ZONE; LM

18.84.010 Purpose

Introductory Paragraph Eliminated Ord. 2001-016, §2, 2001

18.84.010 Purpose

The purposes of the Landscape Management Combining Zone are to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams.

HISTORY

Adopted by Ord. PL-15 on 11/1/1979

Amended by Ord. 90-020 §1 on 6/6/1990

Amended by Ord. 91-020 §1 on 5/29/1991

Amended by Ord. 92-034 §2 on 4/8/1992

Amended by Ord. 95-075 §3 on 11/29/1995

Amended by Ord. 2001-016 §2 on 3/28/2001

Amended by Ord. 2021-013 §11 on XXXX/2021

CHAPTER 18.108 URBAN UNINCORPORATED COMMUNITY ZONE; SUNRIVER

18.108.110 Business Park; BP District

18.108.110 Business Park; BP District

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:
1. Residential uses existing as of March 31, 1997.
 2. Administrative, educational and other related facilities in conjunction with a use permitted outright.
 3. Library.
 4. Recreational path.
 5. Post office.
 6. Religious institutions or assemblies.
 7. Child care facilities, nurseries, and/or preschools.
 8. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:

Retail/rental store, office and service establishment, including but not limited to the following:
 - a. Automobile, motorcycle, boat, recreational vehicle, trailer or truck sales, rental, repair or maintenance business, including tire stores and parts stores.
 - b. Agricultural equipment and supplies.
 - c. Car wash.
 - d. Contractor's office, including but not limited to, building, electrical, plumbing, heating and air conditioning, painter, etc.;
 - e. Construction equipment sales, rental and/or service.
 - f. Exterminator services.
 - g. Golf cart sales and service.
 - h. Lumber yard, home improvement or building materials store.
 - i. Housekeeping and janitorial service.
 - j. Dry cleaner and/or self-service laundry facility.
 - k. Marine/boat sales and service.
 - l. Restaurant, bar and cocktail lounge including entertainment.
 - m. Marijuana wholesaling, office only. There shall be no storage of marijuana items or products at the same location.
 9. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
 - a. Scientific research or experimental development of materials, methods or products, including engineering and laboratory research.

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

10. Employee housing structures.

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

- 1. Public buildings and public utility structures and yards, including railroad yards.
- 2. A dwelling unit for a caretaker or watchman working on a developed property.
- 3. Law enforcement detention facility.
- 4. Parking lot.
- 5. Radio and television broadcast facilities.
- 6. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 - a. Bowling alley.
 - b. Theater.
 - c. Veterinary clinic and/or kennel.
 - d. Marijuana retailing, subject to the provisions of DCC 18.116.330.
- 7. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
 - a. Warehouses and distribution uses in a building or buildings exceeding 10,000 square feet of floor area.
 - b. Distillery and beer/ale brewing facility, including wholesale sales thereof.
 - c. Self/mini storage.
 - d. Trucking company dispatch/terminal.
 - e. Solid waste/garbage operator, not including solid waste disposal or other forms of solid waste storage or transfer station.

C. Use Limits. The following limitations and standards shall apply to uses listed in DCC 18.108.110(A) or (B):

- 1. A use expected to generate more than 30 truck-trailer or other heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot adjacent to or across the street from a lot in a residential district.
- 2. Storage, loading and parking areas shall be screened from residential zones.
- 3. No use requiring air contaminant discharge permits shall be approved by the Planning

Director or Hearings Body prior to review by the applicable state or federal permit reviewing authority, nor shall such uses be permitted adjacent to or across the street from a residential lot.

D. Special Requirements for Large Scale Uses.

Any of the uses listed in DCC 18.108.110(A)(~~6~~8) or (B)(6) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:

1. That the intended customers for the proposed use will come from the community and surrounding rural area, or the use will meet the needs of the people passing through the area. For the purposes of DCC 18.108.110, the surrounding rural area shall be that area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community;
2. The use will primarily employ a work force from the community and surrounding rural area; and
3. That it is not practical to locate the use in a building or buildings under 8,000 square feet of floor space.

E. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 45 feet in height.

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

1. Lot Area. No requirements.
2. Lot Width. No requirements.
3. Lot Depth. Each lot shall have a minimum depth of 100 feet.
4. Front Yard. The front yard shall be a minimum of 25 feet.
5. Side Yard. No side yard required, except when adjoining a lot in an RS or RM District and then the required side yard shall be 50 feet. No side yards are required on the side of a building adjoining a railroad right of way.
6. Rear Yard. No rear yard required, except when adjoining a lot in an RS or RM District and then the rear yard shall be 50 feet. No rear yard is required on the side of a building adjoining a railroad right of way.
7. Lot Coverage. The maximum lot coverage by buildings and structures shall be 50 percent of the total lot area.

G. Special Requirements for Employee Housing

1. The following definitions shall apply to DCC 18.108.110(A)(10):

“Employee” shall mean a person who earns a living by working in the hospitality, food and beverage, outdoor recreation or tourism industry (i) in or within two (2) miles of the Sunriver Urban Unincorporated Community Boundary, or (ii) at Mt. Bachelor Ski and Summer Resort.

“Employer” shall mean a person or entity who employs at least 50 full- or part-time Employees, as defined above, within the Sunriver Urban Unincorporated Community.

“Employee Housing Structure” shall mean a dormitory or similar dwelling structure whose

sole purpose is to serve the housing needs of Employees, and the occupancy of which is restricted to Employees. For the purposes of this section, “dormitory” is defined as a building primarily providing sleeping and residential quarters for large numbers of people, and may include common areas and kitchen facilities.

2. Employee’s spouse, partner and minor children shall only be allowed if compelled by either state or federal law.
3. Employee Housing Structures must be owned and operated by an Employer.
4. Employees, as defined above, who are not employed by an Employer, as defined above, shall only be permitted to reside in an Employee Housing Structure if the Employee’s employer has a signed housing agreement with the Employer operating the Structure.
5. Parking Requirements. Employee Housing Structures must provide as a minimum one vehicular parking space for every 3 beds provided, and bicycle parking for at least one space for every two beds provided.
 - a. For Employee Housing Structures constructed in one or more phases, the parking requirements may be reduced to no fewer than one space for every six beds if the applicant demonstrates at the time of site plan approval that a lesser parking ratio will continue to provide adequate parking as required by DCC 18.116.030(D)(9).

HISTORY

Repealed & Reenacted by Ord. 97-078 §2 on 12/31/1997

Amended by Ord. 2012-002 §1 on 2/27/2012

Amended by Ord. 2015-004 §9 on 4/22/2015

Amended by Ord. 2016-015 §9 on 7/1/2016

Amended by Ord. 2019-008 §1 on 3/6/2019

Amended by Ord. 2020-004 §1 on 2/19/2020

Amended by Ord. 2020-001 §12 on 4/21/2020

Amended by Ord. 2021-004 §6 on 5/27/2021

Amended by Ord. 2021-013 §12 on X/X/2021

CHAPTER 18.116 SUPPLEMENTARY PROVISIONS

18.116.330 Marijuana Production, Processing, Retailing, And Wholesaling

18.116.330 Marijuana Production, Processing, Retailing, And Wholesaling

A. Applicability. Section 18.116.330 applies to:

1. Marijuana Production in the EFU, MUA-10, and RI zones, subject to a land use permit applied for from July 1, 2016 to April 21, 2021, so long as said permit was approved and the use was initiated pursuant to DCC 22.36. New land use permits for marijuana production in aforementioned zones are prohibited by Ordinance No. 2021-004.
2. Marijuana Processing in the EFU, MUA-10, TeC, TeCR, TuC, Tul, RI, and SUBP zones, subject to a land use permit applied for from July 1, 2016 to April 21, 2021, so long as said permit was approved and the use was initiated pursuant to DCC 22.36. New land use permits for marijuana processing in aforementioned zones are prohibited by Ordinance No. 2021-004.
3. Marijuana Retailing in the RSC, TeC, TeCR, TuC, Tul, RC, RI, SUC, SUTC, and SUBP zones.
4. Marijuana Wholesaling in the RSC, TeC, TeCR, TuC, RC, SUC, and SUBP zones.

B. Continued marijuana production and marijuana processing. So long as the permit was approved and the use was initiated pursuant to DCC 22.36, marijuana production and processing subject to land use permits applied for from July 1, 2016 to April 21, 2021 may continue as nonconforming uses pursuant to DCC 18.120.010. Prior to the initiation of the use, said land use permits may only be modified pursuant to the criteria established by DCC 22.36.040, Modification of Approval. A change in ownership of a property with a land use permit for marijuana production or processing, or a change in ownership of a business engaged in marijuana production or processing, shall not be deemed a change of circumstances requiring a modification of approval pursuant to DCC 22.36.040 or an alteration of a nonconforming use pursuant to DCC 18.120.010. Relocation of a marijuana production or processing use to a different lot or parcel~~A change in location for a marijuana production or processing use~~ is prohibited by DCC 18.120.010 and DCC 22.36.040 as any location change will have a greater adverse impact on the neighborhood and/or significant additional impacts on surrounding properties. In addition to conditions of approval specified in each land use permit, the following standards shall govern continued marijuana production and processing:

1. Minimum Lot Area.

- a. In the EFU and MUA-10 zones, the subject legal lot of record shall have a minimum lot area of five (5) acres.

2. Indoor Production and Processing.

- a. In the MUA-10 zone, marijuana production and processing shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.
- b. In the EFU zone, marijuana production and processing shall only be located in buildings, including greenhouses, hoop houses, and similar structures.

- c. In all zones, marijuana production and processing are prohibited in any outdoor area.
3. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:
- a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
 - b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
 - (1) The marijuana production operation was lawfully established prior to January 1, 2015; and
 - (2) The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.
 - c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.
 - d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.
 - e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.
4. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with marijuana production and processing on the subject property shall be:
- a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
 - b. Parcels equal to or greater than 10 acres: 5,000 square feet.
5. Limitation on License/Grow Site per Parcel. No more than one (1) Oregon Liquor Control Commission (OLCC) licensed marijuana production or Oregon Health Authority (OHA) registered medical marijuana grow site shall be allowed per legal parcel or lot.
6. Setbacks. The following setbacks shall apply to all marijuana production and processing areas and buildings:
- a. Minimum Yard Setback/Distance from Lot Lines: 100 feet.
 - b. Setback from an off-site dwelling: 300 feet. For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
 - c. Exception: Any reduction to these setback requirements may be granted by the Planning Director or Hearings Body provided the applicant demonstrates the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.

7. Separation Distances. Minimum separation distances shall apply as follows:

- a. The use shall be located a minimum of 1,000 feet from:
 - (1) A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
 - (2) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - (3) A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures; and
 - (4) National monuments and state parks.
 - b. For purposes of DCC 18.116.330(B)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(7)(a) to the closest point of the buildings and land area occupied by the marijuana producer or marijuana processor.
 - c. A change in use of another property to those identified in DCC 18.116.330(B)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:
 - (1) Pending a local land use decision;
 - (2) Licensed or registered by the State of Oregon; or
 - (3) Lawfully established.
8. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
- a. Have frontage on and legal direct access from a constructed public, county, or state road; or
 - b. Have access from a private road or easement serving only the subject property.
 - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:
 - (1) Be on a form provided by the County and shall contain the following information;
 - (2) Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
 - (3) Include a description of the proposed marijuana production or marijuana processing operation; and
 - (4) Include a legal description of the private road or easement.

9. Lighting. Lighting shall be regulated as follows:

- a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
- b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
- c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

10. Odor. As used in DCC 18.116.330(B)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.

- a. The building shall be equipped with an effective odor control system which must all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
- b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
- c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
- d. The odor control system shall:
 - (1) Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or
 - (2) Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by (1) above.
- e. The system shall be maintained in working order and shall be in use.

11. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:

- a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30dB(A) measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
- b. Sustained noise from marijuana production is exempt from protections of DCC 9.12 and ORS 30.395, Right to Farm. Intermittent noise for accepted farming practices is permitted.

12. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:

- a. Subject to 18.84, Landscape Management Combining Zone approval, if applicable.

- b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
- c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
- d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.

13. Water. The applicant shall provide:

- a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or
- b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
- c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.

14. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.

15. Utility Verification. A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.

16. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.

17. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).

18. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:

- a. An owner of the subject property;
- b. A holder of an OLCC license for marijuana production, provided that the license applies to the subject property; or
- c. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.

19. Nonconformance. All medical marijuana grow sites lawfully established prior to June 8, 2016 by the Oregon Health Authority shall comply with the provisions of DCC 18.116.330(B)(9) by September 8, 2016 and with the provisions of DCC 18.116.330(B)(10-12, 16, 17) by December 8, 2016.

20. Prohibited Uses.

a. In the EFU zone, the following uses are prohibited:

- (1) A new dwelling used in conjunction with a marijuana crop;
- (2) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
- (3) A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction with a marijuana crop; and Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.
- (4) Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.

b. In the MUA-10 Zone, the following uses are prohibited:

- (1) Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.

c. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:

- (1) Guest Lodge.
- (2) Guest Ranch.
- (3) Dude Ranch.
- (4) Destination Resort.
- (5) Public Parks.
- (6) Private Parks.
- (7) Events, Mass Gatherings and Outdoor Mass Gatherings.
- (8) Bed and Breakfast.
- (9) Room and Board Arrangements.

C. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:

1. Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.
2. Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection of marijuana plant odor off premise by a person of normal sensitivity.
3. Window Service. The use shall not have a walk-up or drive-thru window service.
4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.
5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.
6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be

smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.

7. Separation Distances. Minimum separation distances shall apply as follows:

a. The use shall be located a minimum of 1,000 feet from:

- (1) A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
- (2) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
- (3) A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed family child care which occurs at or in residential structures;
- (4) National monuments and state parks; and
- (5) Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.

b. For purposes of DCC 18.116.330(B)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(B)(7)(a)(vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

c. A change in use to another property to a use identified in DCC 18.116.330(B)(7), after a marijuana retailer has been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(B)(7).

D. Annual Reporting

1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:

a. Documentation demonstrating compliance with the:

- (1) Land use decision and permits.
- (2) Fire, health, safety, waste water, and building codes and laws.
- (3) State of Oregon licensing requirements.

b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit

revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.

- c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
- d. Marijuana Control Plan to be established and maintained by the Community Development Department.
- e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
- f. This information shall be public record subject to ORS 192.502(17).

HISTORY

Adopted by Ord. 2016-015 §10 on 7/1/2016

Amended by Ord. 2018-012 §3 on 11/23/2018

Repealed & Reenacted by Ord. 2019-012 §1,2 on 12/2/2019

Amended by Ord. 2020-007 §16 on 10/27/2020

Amended by Ord. 2021-004 §7 on 5/27/2021

Amended by Ord. 2021-013 §13 on XX/XX/2021

CHAPTER 18.120 EXCEPTIONS

18.120.010 Nonconforming Uses

18.120.010 Nonconforming Uses

Except as otherwise provided in DCC Title 18, the lawful use of a building, structure or land existing on the effective date of DCC Title 18, any amendment thereto or any ordinance codified therein may be continued although such use or structure does not conform with the standards for new development specified in DCC Title 18. A nonconforming use or structure may be altered, restored or replaced subject to DCC 18.120.010. No nonconforming use or structure may be resumed after a one-year period of interruption or abandonment unless the resumed use conforms with the provisions of DCC Title 18 in effect at the time of the proposed resumption.

A. Expansion or Replacement of a Nonconforming Structure.

1. **Nonconforming Structure.** For the purposes of DCC 18.120.010, a nonconforming structure is one that was lawfully established and violates current setbacks of DCC Title 18 but conforms with respect to use.
2. **Replacement or Expansion without Additional Encroachment in Setback Area.** A nonconforming structure may be replaced with a new structure of the same size on the same footprint as the preexisting nonconforming structure or may be expanded with an addition that does not project into the required setback area at any point, subject to all other applicable provisions of DCC Title 18.
3. **Replacement or Expansion with Additional Encroachment in Setback Area.** Replacement or expansion of a nonconforming structure that would involve an additional projection into the front, side or rear yard setback area at any point along the footprint of the existing or preexisting structure may be allowed provided such additional projection into the setback area (1) does not exceed 900 square feet; (2) does not exceed the floor space of the existing or preexisting structure; (3) does not cause the structure to project further toward the front, side or rear property lines than the closest point of the existing or preexisting structure; and (4) meets the variance approval standards set forth in DCC 18.132.025(A) (1) through (4).

Such replacements or expansions must conform with all other applicable provisions of DCC Title 18.

B. Expansion of a Nonconforming School in the Exclusive Farm Use Zone.

1. Notwithstanding ORS 215.130, 215.213, 215.283 or DCC 18.16, 18.116, 18.124, 18.128, a public or private school, including all buildings essential to the operation of the school, formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, may be expanded provided:
 - a. The expansion complies with ORS 215.286;
 - b. The school was established on or before January 1, 2009;
 - c. The expansion occurs on a tax lot:
 - (1) On which the school was established; or
 - (2) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and

- d. The school is a public or private school for kindergarten through grade 12.
2. An expansion cannot be denied under DCC 18.120.010(B) upon any rule or condition establishing:
 - a. A maximum capacity of people in the structure or group of structures;
 - b. A minimum distance between structures; or
 - c. A maximum density of structures per acre.

C. Verification of Nonconforming Use.

1. Subject to the procedures set forth in DCC 18.120.010 and in DCC Title 22 for processing declaratory rulings, the planning division will verify whether or not a use constitutes a valid nonconforming use in accordance with the provisions of DCC 18.120.010 and applicable state law. Verification of the existence of a nonconforming use is required prior to or concurrent with any application to alter or restore the use.
2. Subject to DCC 18.120.010(F)(2), the applicant shall demonstrate all of the following:
 - a. The nonconforming use was lawfully established on or before the effective date of the provisions of the zoning ordinance prohibiting the use or had proceeded so far toward lawful completion as of the date it became nonconforming that a right to complete and maintain the use would be vested;
 - b. The nonconforming use as it existed on the date it became nonconforming, considering the nature and the extent of the actual use of the property, has continued without abandonment or interruption; and
 - c. Any alteration in the nature and extent of the nonconforming use was done in compliance with applicable zoning ordinance standards governing alterations of non-conforming uses.
3. For purposes of determining whether an abandonment or interruption of use has occurred, the following shall apply:
 - a. The reference period for determining whether an abandonment or interruption of a nonconforming use or an aspect thereof has occurred shall be one year.
 - b. An abandonment or interruption in a use or portion thereof may arise from the complete cessation of actual use of a property for a one-year period or may arise from a change in the nature or extent of the use made of the property for a one-year period or more.
 - c. An interruption or abandonment that constitutes less than full cessation of the use or a portion thereof may, in accordance with DCC 18.120.010(F)(4), result in a declaration of a continuing use, but of a lesser intensity or scope than what would have been allowable if the nature and extent of the use as of the date it became nonconforming had continued.
 - d. Absent an approved alteration, a change in the nature of the use may result in a determination that the use has been abandoned or has ceased if there are no common elements between the activities of the previous use and the current use.
 - e. Change of ownership or occupancy shall not constitute an interruption or abandonment, provided that, absent an approved alteration, the continuing use

made of the property falls within the allowed scope of use made of the property by previous owners or occupants.

- f. Factors to be considered in determining whether there has been a change in the nature and/or extent of a use shall include, but are not limited to, consideration of the type of activities being conducted, the operating characteristics of the activities associated with the use (including off-site impacts of those activities), the frequency of use, the hours of operation, changes in structures associated with the use and changes in the degree to which the activities associated with the use occupy the site.

D. Maintenance of a nonconforming use. Normal maintenance of a verified nonconforming use or structure shall be permitted. Maintenance does not include alterations which are subject to DCC 18.120.010(E).

E. Restoration or replacement of a nonconforming use. A verified nonconforming use may be restored or replaced if all of the following criteria are met:

1. Restoration is made necessary by fire, natural disaster or other casualty;
2. The nonconforming use is restored or replaced on the same location and is the same size or smaller than it was prior to the damage or destruction; and
3. The restoration or replacement of the nonconforming use is commenced within one year of the damage or destruction.

F. Alteration of a nonconforming use.

1. The alteration of a nonconforming use shall be permitted when necessary to comply with any lawful requirement.
2. Any other alteration to a nonconforming use may be permitted subject to all applicable provisions of DCC Title 18, including site plan review and upon a finding that the alteration will have no greater adverse impact on the neighborhood.
3. For the purposes of DCC 18.120.010(E)(2), an “alteration of a nonconforming use” shall include any change in the use of the property that would constitute a change in the nature or extent of the use of the property.

G. Procedure.

1. Any application for verification of a nonconforming use or to expand, alter, restore or replace a nonconforming use shall be processed in conformance with the applicable procedures set forth in DC 18.120.010 and the applicable procedures of DCC Title 22, the Deschutes County Uniform Development Procedures Ordinance.
2. Notwithstanding DCC 22.20.010, the initial decision on an application for an alteration of a nonconforming use shall be made administratively, without a public hearing. The Planning Director may give prior notice of the pending application pursuant to DCC 22.20.020.
3. Except as allowed by DCC 18.120.010(F)(3)(a), the burden of proof shall be on a verification applicant to prove the existence, continuity, nature and extent of the use.
 - a. Notwithstanding DCC 22.24.050, if an applicant demonstrates by a preponderance of the evidence that the nature and extent of the use sought to be verified is of the same nature and extent as the use of the property for the ten-year

period immediately preceding the application, without interruption or abandonment, it shall be presumed that the nonconforming use, as proven, lawfully existed at the time the use became nonconforming and has continued without interruption or abandonment until the date of application.

- b. The presumption may be rebutted by a preponderance of evidence showing that the use was unlawful prior to the time it became nonconforming, or that the use prior to the ten-year period was of a different nature or different in extent than the use, as proven, or that the use prior to the ten-year period was interrupted or abandoned. If the presumption is so rebutted, the presumption shall disappear and be of no further aid to the applicant.
4. If the proof demonstrates the continued existence of a valid non-conforming use, but of a different nature or extent than that claimed by the applicant, the Hearings Body may declare there to be a valid nonconforming use to the extent proven.
 5. An approval of a verification, replacement or restoration of a nonconforming use verification shall not be conditioned; an approval shall be sufficiently detailed to describe the allowed parameters of the verified use. However, an approval of an alteration of a nonconforming use may be conditioned in a manner calculated to ensure mitigation of adverse impacts so that the change has no greater adverse impact to the neighborhood.
 6. After a decision has been rendered on an application for a verification of a nonconforming use (including any appeals provided for under DCC Title 22 and under state law), the applicant shall not be entitled to reapply under DCC 22.28.040 for another verification determination involving the same use of the property.

HISTORY

Adopted by Ord. PL-15 §6.010 on 11/1/1979

Amended by Ord. 91-038 §1 on 9/30/1991

Amended by Ord. 93-043 §20 on 8/25/1993

Amended by Ord. 95-050 §1 on 6/28/1995

Amended by Ord. 98-037 §1 on 8/26/1998

Amended by Ord. 2004-013 §13 on 9/21/2004

Amended by Ord. 2020-022 §1 on 5/20/2020

Amended by Ord. 2021-013 §14 on XX/XX/2021.

CHAPTER 19.76 SITE PLAN REVIEW

19.76.090 Deschutes River Corridor Design Review

19.76.090 Deschutes River Corridor Design Review

A. Purpose. It is the purpose of the Deschutes River Corridor Design Review to ensure compliance with the objectives of DCC Title 19 and the goals and policies relating to the Deschutes River in the Bend Area General Plan. The purpose shall also be to:

1. Recognize and respect the unusual natural beauty and character of the Deschutes River.
2. Conserve and enhance the existing riparian zone along the Deschutes River.
3. Allow the community flexibility in reviewing development proposals within the Areas of Special Interest that are designated on the Bend Area General Plan.
4. Maintain the scenic quality of the canyon and rimrock areas of the Deschutes River.
5. Conserve and enhance property values.

In considering a Design Plan, Deschutes County ~~the Bend Urban Area Planning Commission~~ shall utilize an appropriate review body as described in DCC Title 22.24 and take into account the impact of the proposed development on nearby properties, on the capacity of the street system, on land values and development potential of the area, and on the appearance of the street and community.

B. The following areas and uses are exempt from the Deschutes River Design Review process:

1. Public streets and utility facilities existing as of the date of adoption of DCC Title 19. Notwithstanding anything to the contrary in DCC Title 19, a variance may be granted to the mandatory 40 foot setback for future public streets and utility facilities.
2. Irrigation facilities, canals and flumes existing as of the date of adoption of DCC Title 19.

C. Design Review Procedure. All new development, structures, additions and exterior alterations to structures, including outside storage and off-street parking lots within the Deschutes River Corridor, are subject to a Design Review process.

1. Prior to filing a design review application, the applicant shall confer with the Planning Director concerning the requirements of formal application.
2. The design review application shall be filed on a form provided by the Planning Division and shall be accompanied by drawings and information as specified by the Planning Division. Copies of the plan shall be submitted and such additional information as is deemed necessary for the Planning Director or review body ~~Bend Urban Area Planning Commission~~ to adequately review the application.
3. The review body ~~Bend Urban Area Planning Commission~~ or Planning Director shall in accordance with DCC Title 19 and DCC Title 22 approve, approve with conditions, or disapprove the design plan. In approving the plan, the review body ~~Bend Urban Area Planning Commission~~ or Planning Director shall find that all provisions of DCC Title 19 are complied with and that all buildings and facilities, access points, parking loading facilities, lighting, and walls or fences are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected, and there will be minimal adverse effect on surrounding property and the river corridor. The decision of the review body ~~Bend Urban Area Planning Commission~~ or Planning Director shall be final unless appealed in accordance with applicable provisions of DCC Title 22.

D. Minimum Standards. All development within the Deschutes River Corridor shall meet the following

minimum standards for development:

1. Building Setbacks. For the areas described below, the setback for all new development shall be a minimum of 100 feet from the ordinary high water mark unless the applicant can demonstrate that a lesser setback is warranted, due to lot size and shape, topography, preservation of natural vegetation, view corridors, and subject to the criteria in DCC 19.76.090(E). In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River. The term "new development" shall not include rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed.
 - a. The east and west banks from the southern boundary of the City of Bend to the southern boundary of the Bend Urban Area;
 - b. The east and west banks from the northern boundary of the City of Bend to the northern boundary of the Bend Urban Area.
 2. Building Heights. Maximum structure height shall be limited to 30 feet at the minimum setback line. The review body ~~Bend Urban Area Planning Commission~~ may allow increases in building heights up to the allowed height in the underlying zone the farther the building sets back from the river. The review body ~~Bend Urban Area Planning Commission~~ may limit building height the closer to the river a building is allowed. The building height shall be measured from the lowest natural grade facing the river to the highest measurable point on or projecting from the roof of the structure.
- E. Site and Design Review Criteria. In addition to the minimum standards above, the review body ~~Bend Urban Area Planning Commission~~ shall review the development using the following design criteria:
1. Conservation of natural features. Major rock outcrops, stands of trees or other prominent natural features are an important part of the visual character and duality of the community. The review body ~~Bend Urban Area Planning Commission~~ shall review the applicant's proposal for impacts on these resources and may limit the amount of removal, require additional screening, or moving or reducing in size the development addition or structure in order to preserve to the greatest extent possible, existing natural features.
 2. Compatibility with existing area. The review body ~~Bend Urban Area Planning Commission~~ shall consider the relationship of the proposed development with the existing surroundings, in terms of building bulk, height, location, separation, shape, parking areas, lighting, fences, landscaping, open space, visual and physical corridors to the river and adjacent land use. The review body ~~Bend Urban Area Planning Commission~~ may establish increased setbacks, limitations of building heights, and limitations on the bulk and length of buildings, limitations on lighting, landscaping, fences, size and shape of windows facing the river, size and location of parking, and outdoor storage areas in order to carry out the purpose of DCC Title 19.
 3. Colors and Materials. The review body ~~Bend Urban Area Planning Commission~~ shall consider colors and materials. The review body ~~Bend Urban Area Planning Commission~~ may require new structures and additions to existing structures to be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site or colors that are compatible with adjacent buildings.
 4. No large areas, including roofs, shall be finished with bright or reflective materials. Metal roofing material is permitted if it is nonreflective and of a color which blends with the surrounding vegetation and landscape.

HISTORY

Adopted by Ord. PL-11 on 7/11/1979

Repealed & Reenacted by Ord. 90-038 §1 on 10/3/1990

Amended by Ord. 94-027 §3 on 6/15/1994

Amended by Ord. 2021-013 §15 on XX/XX/2021.

CHAPTER 22.04 INTRODUCTION AND DEFINITIONS

22.04.020 Definitions

22.04.020 Definitions

"Development action" means the review of any permit, authorization or determination that the Deschutes County Community Development Department is requested to issue, give or make that either:

- A. Involves the application of a County zoning ordinance or the County subdivision and partition ordinance and is not a land use action as defined below; or
- B. Involves the application of standards other than those referred to in ~~DCC-22.040.030~~subsection (A) above, such as the sign ordinance.

HISTORY

Repealed & Reenacted by Ord. 82-011 on 8/9/1982

Repealed & Reenacted by Ord. 90-007 §1 on 12/7/1990

Amended by Ord. 95-045 §1 on 6/28/1995

Amended by Ord. 96-071 §1A on 12/30/1996

Amended by Ord. 2017-015 §3 on 11/1/2017

Amended by Ord. 2020-007 §19 on 10/27/2020

Amended by Ord. 2021-013 §16 on XX/XX/2021

CHAPTER 22.24 LAND USE ACTION HEARINGS

22.24.130 Close Of The Record

22.24.130 Close Of The Record

- A. Except as set forth herein, the record shall be closed to further testimony or submission of further argument or evidence at the end of the presentations before the Hearings Body.
- B. If the hearing is continued or the record is held open under DCC 22.24.140, further evidence or testimony shall be taken only in accordance with the provisions of DCC 22.24.140.
- C. Otherwise, further testimony or evidence will be allowed only if the record is reopened under DCC 22.24.160.
- D. Unless waived by the applicant, the Hearings Body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427, ORS 215.429, or DCC 22.20.040.~~An applicant shall be allowed, unless waived, to submit final written arguments in support of its application after the record in the initial hearing has closed within such time limits as the Hearings Body shall set. The Hearings Body shall allow applicant at least seven days to submit its argument, which time shall be counted against the 150-day clock.~~

HISTORY

Repealed & Reenacted by Ord. 82-011 on 8/9/1982

Repealed & Reenacted by Ord. 90-007 §1 on 12/7/1990

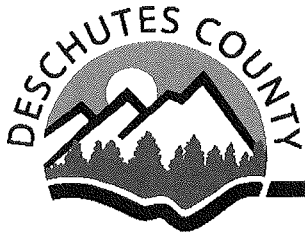
Amended by Ord. 95-045 §19 on 6/28/1995

Amended by Ord. 96-071 §1D on 12/30/1996

Amended by Ord. 99-031 §8 on 10/27/1999

Amended by Ord. 2006-010 §9 on 8/29/2006

Amended by Ord. 2021-013 §17 on XX/XX/2021



FINDINGS HOUSEKEEPING TEXT AMENDMENTS

I. **APPLICABLE CRITERIA:**

Title 22, Deschutes County Development Procedures Ordinance

II. **BACKGROUND:**

The Planning Division regularly amends Deschutes County Code (DCC) and the Comprehensive Plan to correct minor errors identified by staff, other County departments, and the public. This process, commonly referred to as housekeeping, also incorporates updates from rulemaking at the state level through amendments to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR), and allows for less substantive code changes to continue efficient County operations.

The last time Deschutes County adopted housekeeping amendments occurred in July 2020.¹

III. **BASIC FINDINGS:**

The Planning Division determined minor changes were necessary to clarify existing standards and procedural requirements, include less substantive code alterations, incorporate changes to state law, and correct errors found in various sections of the Deschutes County Code (DCC). Staff initiated the proposed changes and notified the Oregon Department of Land Conservation and Development on September 23, 2021 (File no. 247-21-000862-TA). As demonstrated in the findings below, the amendments remain consistent with Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

IV. **FINDINGS:**

CHAPTER 22.12, LEGISLATIVE PROCEDURES

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

¹ Ordinance 2020-007.

Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: This criterion is met because a public hearing was held before the Deschutes County Planning Commission on November 18, 2021 and before the Board of County Commissioners (Board) on December 15, 2021.

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 is met as notice was published in *The Bulletin* newspaper on September 29, 2021 for the Planning Commission public hearing and November 30, 2021 for the Board 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 is met as notice was posted on the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend, as well as on the Planning Division website.

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: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

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.

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, and has received a fee waiver. This criterion has been met.

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: This criterion is met as the Planning Commission held a public hearing on November 18, 2021. The Planning Commission recommended approval of the proposed amendments unanimously. The Board held their own public hearing on December 15, 2021.

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-21-000862-TA will be implemented by ordinances upon approval and adoption by the Board.

V. PROPOSED TEXT AMENDMENTS:

The proposed text amendments are detailed in the referenced ordinance with additional text identified by underline and deleted text by ~~strike through~~. Below are summary explanations of the proposed changes.

Title 15, Buildings and Construction:

Chapter 15.04. BUILDINGS AND CONSTRUCTION CODES AND REGULATIONS - (See Exhibit A)

Section 15.04.080. Fire Code; Adopted

DCC 15.04.080 contains a reference to the "2019 edition of the International Fire Code" as the locally adopted and applicable fire code for Deschutes County. The proposed amendment would alter this language to reference the "currently adopted edition of the International Fire Code" as well as OAR 837-040-0010 wherein the state of Oregon formally adopts the Fire Code, to prevent the need for further code amendments when future iterations of the International Fire Code are promulgated. Similar language was previously included in County Code, but was unintentionally altered by Ordinance no. 2020-007.

Title 17, Subdivisions:

Chapter 17.24. FINAL PLAT

Section 17.24.150. Recording - (See Exhibit B)

DCC 17.24.150(B) contains a reference to “blue line” copies of final plats and “cartography” fees when recording documents with the Planning Division. These specific standards are no longer required during the final plat recording process, and the proposed changes reflect the contemporary recording standards.

Title 18, County Zoning:

Chapter 18.04. TITLE, PURPOSE, AND DEFINITION - (See Exhibit C)

Section 18.04.030. Definitions

The current definition for Manufactured Home states: "Manufactured home shall have the meaning as set forth in ORS 446.003(24)(a)." The amendment corrects the ORS Reference to state: ORS 446.003.

Includes a new definition for “Facility for the processing of farm products,” as described in ORS 215.255. This definition was previously established in DCC 18.16.025(I).

The definition for “Current employment of land for farm use” contains two incorrect references for processing facilities allowed under DCC 18.16.025 and commercial activities in conjunction with farm use under DCC 18.16.030. The proposed amendments alter these references to the correct code sections describing processing facilities and commercial activities in conjunction with farm use.

Chapter 18.16. EXCLUSIVE FARM USE ZONES - (See Exhibit D)

Section 18.16.023. Lawfully Established Dwelling Replacement

In conformance with House Bill 3024 and OAR 660-033-0130, the amendment prohibits the County from considering property tax classification of dwellings deemed unsafe for occupancy or constituting an attractive nuisance, or dwellings that were previously removed, destroyed, demolished or converted to nonresidential uses when reviewing applications for replacement dwellings on lands zoned for exclusive farm use. The amendments also more broadly align County Code with the current replacement dwelling standards of OAR 660-033-0130. No additional uses or restrictions are included within the general OAR alignment edits.

Section 18.16.025. Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable

In conformance with House Bill 2106 and OAR 660-033-0010, the amendment alters the established date requirements for any farm building used for dog training classes or testing trials.

In conformance with House Bill 2844 and ORS 215.255(2)(b), the amendment adds a new farm crop processing use, provided that the operation uses less than 2,500 square feet for its processing area. Pursuant to OAR 660-033-0130, the County may not impose any siting requirements which would prohibit these uses from being established on a property. Additionally, the proposed edits more generally align County Code with the OAR 660-033-0130 language describing facilities for processing of farm crops. No additional uses or restrictions are included within the general OAR alignment edits.

Section 18.16.030. Conditional Uses Permitted – High-Value and Non-High Value Farmland

DCC 18.16.030(D) currently implies that a medical hardship dwelling in the EFU Zone can only be a manufactured home or a recreation vehicle (RV). However, OAR 660-033-0130 also allows existing buildings to be used for temporary hardship dwellings. This amendment will maintain conformance with the existing hardship dwelling standards of DCC 18.16.050(H)(1)(a) and OAR 660-033-0130.

Section 18.16.050. Standards for Dwellings in the EFU Zones

DCC 18.16.050(A) references 18.16.030(A). 18.16.050(A) should reference 18.16.025(A) to address “dwellings customarily provided in conjunction with farm use.”

In conformance with OAR 660-033-0135, the amendment adds “Except for seasonal farmworker housing approved prior to 2001” to all references of “no other dwelling on the subject tract” and/or “land.”

Chapter 18.32. MULTIPLE USE AGRICULTURAL ZONE – MUA - (See Exhibit E)

Section 18.32.030. Conditional Uses Permitted

DCC 18.32.030(AD) contains a reference to OAR 660-004-0040(7)(g), which does not exist. The amendment adds the correct reference which outlines Goal 14 exceptions for new manufactured home parks which exceed the density allowed under OAR 660-004-0040.

Chapter 18.36. FOREST USE ZONE; F-1 - (See Exhibit F)

Section 18.36.050. Standards For Single-Family Dwellings

In conformance with House Bill 2225 and OAR 660-006-0027, the amendment adds additional standards and clarifications for template dwellings approved in the Forest Zone, as well as general conformance edits in line with the OAR language. The amendments associated with OAR 660-006-0027 do not become active across all jurisdictions until November 1, 2021.

Chapter 18.40. FOREST USE ZONE; F-2 - (See Exhibit G)

Section 18.40.050. Standards For Single-Family Dwellings

In conformance with House Bill 2225 and OAR 660-006-0027, the amendment adds additional standards and clarifications for template dwellings approved in the Forest Zone, as well as general conformance edits in line with the OAR language. The amendments associated with OAR 660-006-0027 do not become active across all jurisdictions until November 1, 2021.

Chapter 18.67. TUMALO RURAL COMMUNITY ZONING DISTRICTS - (See Exhibit H)

Section 18.67.020. Residential (TuR) District

DCC 18.67.020(D)(2)(b) currently reads "the standards set forth in DCC 18.67.020(C)(1) shall apply." This reference was unintentionally established by Ordinance 2020-010, as part of the broader child care amendments. The amendment changes this reference back to its original state, with the correct use listed as DCC 18.67.020(D)(1).

Section 18.67.040. Commercial (TuC) District

DCC 18.67.040(D) currently contains a reference to DCC 18.67.040(C)(11), which describes wireless communication facilities. This reference was established by Ordinance 2020-010, as part of the broader child care amendments. The previous reference listed under DCC 18.67.040(D) referred to "The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor space..." The amendment changes this reference back to its original state, with the correct use listed as DCC 18.67.040(C)(10).

Chapter 18.74. RURAL COMMERCIAL ZONE - (See Exhibit I)

Section 18.74.020. Uses Permitted; Deschutes Junction And Deschutes River Woods Store

DCC 18.74.020(B) states "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." DCC 18.128 refers to the Conditional Use chapter rather than the Site Plan chapter. The amendment alters DCC 18.74.020(B) to reflect the actual Site Plan chapter, DCC 18.124.

Chapter 18.80. AIRPORT SAFETY COMBINING ZONE; A-S - (See Exhibit J)

Section 18.80.044. Land Use Compatibility

DCC 18.80.044(A) refers to FAA Order 5100.38A. However, FAA Order 5100.38A has been canceled and replaced with FAA Order 5100.38D. The amendment alters DCC 18.80.044(A) to remove any specific FAA chapter references, but still maintain compliance with the FAA guidance established in Order 5100.38(D).

Chapter 18.84. LANDSCAPE MANAGEMENT COMBINING ZONE; LM - (See Exhibit K)

Section 18.84.010. Purpose

DCC 18.84.010 currently states "The purposes of the Land Management Combining Zone..." The amendment corrects the reference to the zoning chapter title as "Landscape Management Combining Zone."

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE; SUNRIVER - (See Exhibit L)

Section 18.108.110. Business Park; BP District

DCC 18.108.110(D) states "Any of the uses listed in DCC 18.108.110(A)(6) or (B)(6) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds..." Reference to 18.108.110(A)(6) is for "Religious institutions or assemblies." DCC 18.108.110(A)(6) originally referred to "A building or buildings each not exceeding 8,000 square feet of floor space..." This reference was unintentionally altered pursuant to Ordinance 2012-002 and Ordinance 2019-008. Given the unintentional reference change, and the provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA), the amendment changes this reference back to its original state, with the correct use listed as DCC 18.108.110(A)(8).

Chapter 18.116. SUPPLEMENTARY PROVISIONS - (See Exhibit M)

Section 18.116.330. Marijuana Production, Processing, Retailing, And Wholesaling

DCC 18.116.330(B) needs clarification to better outline legislative intent. Specifically, DCC 18.116.330(B) contains the language "A change in location for a marijuana production or processing use is prohibited by DCC 18.120.010 and DCC 22.36.040 as any location change will have a greater adverse impact on the neighborhood and/or significant additional impacts on surrounding properties." An argument could be made that the term a "location change" refers to intra-property changes, inter-property changes, or both, thereby prohibiting both. Staff understands the original intent to preclude only inter-property location changes (i.e. - relocation of a marijuana production or processing use to another property/parcel). The amendment clarifies the existing code language to ensure this intent is more clearly stated.

Chapter 18.120. EXCEPTIONS - (See Exhibit N)

Section 18.120.010. Nonconforming Uses

DCC 18.120.010(F)(3) states "For the purposes of DCC 18.120.010(E)(2), an "alteration of a nonconforming use" shall include any change in the use of the property that would constitute a change in the nature or extent of the use of the property." The amendment changes the reference to correctly identify the standards for "alteration of a nonconforming use."

Title 19, Bend Urban Growth Boundary Zoning Ordinance:

Chapter 19.76. SITE PLAN REVIEW - (See Exhibit O)

Section 19.76.090. Deschutes River Corridor Design Review

DCC 19.76.090 contains references to the "Bend Urban Area Planning Commission" as the appropriate review body for development which requires site plan and design review in the Deschutes River Corridor for Title 19 properties. However, the Bend Urban Area Planning Commission is no longer an active review body. The amendment replaces this language with a reference to DCC 22.24 when determining an appropriate review body for all new site plan development which occurs in Title 19 areas associated with the Deschutes River Corridor. DCC 22.24.020 describes the appropriate review body proceedings for all other County land use action hearings.

Title 22, DESCHUTES COUNTY DEVELOPMENT PROCEDURES ORDINANCE:

Chapter 22.04. INTRODUCTION AND DEFINITIONS - (See Exhibit P)

Section 22.04.020. Definitions

"Development Actions" (B) states: "Involves the application of standards other than those referred to in DCC 22.040.030(A), such as the sign ordinance." DCC 22.04.030(A) has been repealed. Ordinance 95-045 contains a reference to section (A) of the "Development Actions" definition. Subsequent Ordinance 96-071 provided each definition in DCC 22.04 with a given a section number, including section 22.04.030 for Development Actions. Subsequent ordinances removed section numbers from definitions in Title 22 broadly. The amendment removes the irrelevant section number from the "Development Actions" definition.

Chapter 22.24. LAND USE ACTION HEARINGS - (See Exhibit Q)

Section 22.24.130. Close Of The Record

The amendment alters DCC 22.24.030(D) to match the requirements of ORS 197.763(6).

VI. CONCLUSION:

Based on the information provided herein, staff recommends the Board of County Commissioners approve the proposed text amendments that make minor changes necessary to clarify existing

standards and procedural requirements, incorporate changes to state law, and to correct errors in the Deschutes County Code.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: January 5, 2022

SUBJECT: Staff Report – 2021 Housekeeping Amendments 2nd Reading

BACKGROUND AND POLICY IMPLICATIONS:

The Planning Division regularly amends Deschutes County Code (DCC) and the Comprehensive Plan to correct minor errors identified by staff, other County departments, and the public. This process, commonly referred to as "housekeeping," also incorporates updates from rulemaking at the state level through amendments to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR), and allows for less substantive code changes to continue efficient County operations.

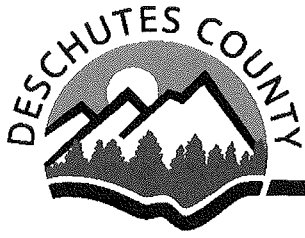
The Board of County Commissioners (Board) conducted a public hearing on December 15, 2021 to consider staff-initiated housekeeping amendments (file no. 247-21-000862-TA). Following the conclusion of the hearing, the Board voted in favor of approving the proposed amendments as drafted and conducted first reading of Ordinance 2021-013. Second reading of Ordinance 2021-013 is scheduled for Wednesday, January 5, 2022. The proposed housekeeping amendments will take effect on April 5, 2022, if approved on January 5, 2022.

BUDGET IMPACTS:

None

ATTENDANCE:

Kyle Collins, Associate Planner



MEMORANDUM

DATE: December 28, 2021

TO: Board of County Commissioners

FROM: Kyle Collins, Associate Planner

RE: Housekeeping Amendments Second Reading (file no. 247-21-000862-TA)

The Board of County Commissioners (Board) held a public hearing on December 15, 2021 concerning housekeeping amendments to Deschutes County Code (DCC). The amendments correct minor errors and incorporate updates from rulemaking at the state level through amendments to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). The proposed amendments are described in two Ordinances, one proposed for adoption by emergency and one proposed with a standard 90-day adoption timeline:

- Ordinance 2021-013
- Ordinance 2021-014 – *Proposed Adoption by Emergency*

One person, Annunziata Gould, provided public testimony during the hearing related to the following:

- A proposed amendment for new deadlines when submitting formal appeals of local land use decisions. This amendment was proposed by staff to accommodate new visitor hours for the main Community Development Department (CDD) office and to notify applicants of their obligations when filing a formal appeal.
- A proposed amendment for open record period requirements during land use action hearings. Specifically, the amendment alters DCC 22.24.030(D) to match the requirements of ORS 197.763(6) regarding open record periods.

Ms. Gould's testimony raised concerns that the proposed amendments would render Deschutes County Code noncompliant with relevant ORS and OAR requirements. Additionally, Ms. Gould's testimony raised concerns that shorter hours for the main CDD office along with the accompanying appeal filing deadline adjustments would create hardships for those wishing to provide public input during relevant land use proceedings.

Staff reiterated to the Board that the proposed amendments to DCC 22.24.030(D) are specifically offered to align Deschutes County Code with the relevant ORS language governing open record periods during land use action hearings. Additionally, staff reiterated that the proposed changes to deadlines for filing formal appeals is necessary to provide conformance with the new CDD office hours, which began closing at 4:00 PM rather than 5:00 PM on December 1, 2021. This change in office hours was undertaken to allow additional resources for staff responding to significant volumes of customer inquiries identified over the past several months.

Following the conclusion of the hearing, the Board voted in favor of approving the proposed amendments as drafted. The Board conducted first and second reading of Ordinance 2021-014 after staff recommended adoption by emergency. Ordinance 2021-014 contains the amendment altering the deadlines for filing formal appeals of local land use decisions. Ordinance 2021-014 will take effect on January 3, 2022. Additionally, the Board conducted first reading of Ordinance 2021-013. Second reading of Ordinance 2021-013 is scheduled for Wednesday, January 5, 2022. The remaining amendments will take effect on April 5, 2022, if approved on January 5, 2022.

Attachment

- Ordinance 2021-013 with Exhibits