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REVIEWED
KG
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending *
Ordinance No. PL-15, *
Deschutes County Zoning *
Ordinance of 1979, as *
Amended, Revising Pro- *
visions Concerning Fill *
and Removal, and Declar- *
ing an Emergency. *

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MARY SUE FENHOLLOW
COUNTY CLERK

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ORDINANCE NO. 89-008

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

Section 1. Section 8.050, Ordinance No. Pl-15, Deschutes
County Zoning Ordinance of 1979, as amended, Specific Use Stan-
dards, is further amended to read as follows:

"23. Fill and Removal.

A. Except as otherwise provided in this ordi-
nance, no person shall fill or remove any
material or remove any vegetation, regardless
of the amount, within the bed and banks of
any stream or river, or in any wetland,
unless such fill or removal is approved as a
conditional use in accordance with the
following standards:

1. An application shall be filed containing
a plan with the following information:
 - a. A detailed explanation of the
planned fill or removal including
the amount of material to be filled
or removed.
 - b. An explanation of why the fill or
removal is necessary.
 - c. A site plan, drawn to scale and
accompanied by such drawings,
sketches, and descriptions as are
necessary to describe and illus-
trate the proposed fill or remov-
al. The site plan shall, at a
minimum, include:

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- i. An inventory of existing vegetation.
 - ii. The proposed modifications, if any, to the vegetation.
 - iii. Existing and proposed site contours.
 - iv. Location of property lines, easements, and high water marks.
 - v. Other site elements or information which will assist in the evaluation of the proposed fill or removal.
2. Public facility and service uses, such as construction or maintenance of roads, bridges, electric, gas, telephone, water, sewer transmission and distribution lines, and related facilities controlled by public utilities or cooperative associations, shall not be granted conditional use permits to fill or remove unless the following findings are made:
- a. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.
 - b. That the roads, bridges, transmission and distribution lines, and related facilities cannot, as a practical matter, be located outside of the wetland, or bed and bank of the stream or river.
 - c. That the construction or maintenance requiring the fill or removal will be done in a manner designed to minimize the adverse impact upon the wetland, stream or river.
 - d. That erosion will be adequately controlled during and after construction.

- e. That the impacts on fish and wildlife habitat from the fill or removal will be minimized to the greatest extent practical. The Oregon Department of Fish and Wildlife will be requested to review and comment on the application.
3. Fill or removal required for public park and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, public boat launching ramps, public docks and public walkways shall not be allowed as a conditional use unless the following findings are made:
- a. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use permit.
 - b. That only the minimum removal of vegetation or material and dredging or excavation necessary for construction and maintenance will be done.
 - c. That the specific location of the site will require the minimum amount of disturbance to the natural environment, considering alternative locations in the area and methods of construction.
 - d. That such construction and maintenance is designed and done in such a manner as to minimize the adverse impact on the site.
 - e. That erosion will be adequately controlled during and after construction.
 - f. That the impacts on fish and wildlife habitat by the fill or removal will be minimized to the greatest extent practical. The Oregon Department of Fish and Wildlife will be requested to

review and comment on the application.

4. Except for uses identified in subsections 2 and 3 above, an application for a conditional use permit for activity involving fill or removal of material or vegetation within the bed and banks of a stream , river or wetland:
 - a. Shall be granted only after consideration of the following factors:
 - i. The effects on public or private water supplies and water quality.
 - ii. The effects on aquatic life and habitat, and wildlife and habitat. The Oregon Department of Fish and Wildlife will be requested to review and comment on the application.
 - iii. Recreational, aesthetic, and economic values of the affected water resources.
 - iv. Effects on the hydrologic characteristics of the water body, such as direction and velocity of flow, elevation of water surface, sediment transportation capacity, stabilization of the bank, and flood hazards.
 - v. The character of the area, considering existing stream-bank stabilization problems and fill or removal projects which have previously occurred.
 - b. Shall not be granted unless all of the following conditions are met:
 - i. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.

- ii. That there is no practical alternative to the proposed project which will have less impact on the surrounding area, considering the factors established in subsection 4. a. above.
- iii. That there will be no significant impacts on the surrounding area, considering the factors established in subsection 4. a. above.
- iv. That erosion will be adequately controlled during and after the project.
- v. That vegetation will maintain the essential character, quality, and density of existing growth. Additional vegetation shall be required if necessary to protect aquatic life habitats, functions of the ecosystem, wildlife values, erosion and aesthetic resources.
- vi. That the proposed fill or removal activity will be consistent with all relevant goals and policies of the Deschutes County Comprehensive Plan.
- vii. That a conservation easement, as defined in Section 1.030 (25B) of this Ordinance, shall be conveyed to the County, which provides, at a minimum, that all elements of the project will be carried out and maintained as approved, in perpetuity, for the regulated fill or removal area and all real property on the same lot, within 10 feet of any wetland, river or stream."

Section 2. Notwithstanding the provisions of Section 19 of Ordinance No. 82-011, the Deschutes County Land Use Procedures

Ordinance, an application for a fill and removal conditional use permit which was denied may be re-submitted within six months of such denial if the application was:

1. accepted by the Planning Division on or after January 1, 1988; and
2. denied due to the applicant's failure to submit a letter from the Oregon Department of Fish and Wildlife as required by former Section 8.050 23.A.1.d. of Ordinance No. PL-15.

Section 3. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 29th day of March, 1989.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Lois Bristow Prante
LOIS BRISTOW PRANTE, Chair

Tom Throop
TOM THROOP, Commissioner

Dick Maudlin
DICK MAUDLIN, Commissioner

ATTEST:

Andrea L. Hum
Recording Secretary