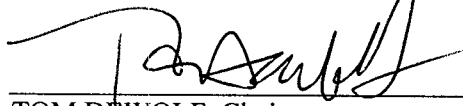




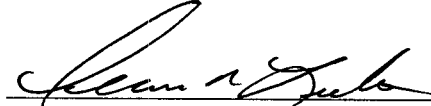
Section 3. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 13<sup>th</sup> day of April, 2005.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON



TOM DEWOLF, Chair



DENNIS R. LUKE, Commissioner

- absent -

MICHAEL M. DALY, Commissioner

Date of 1<sup>st</sup> Reading: 13<sup>th</sup> day of April, 2005.

Date of 2<sup>nd</sup> Reading: 13<sup>th</sup> day of April, 2005.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Tom DeWolf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael M. Daly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Effective date: 13<sup>th</sup> day of April, 2005.

ATTEST:



Recording Secretary

**Chapter 18.32. MULTIPLE USE  
AGRICULTURAL ZONE  
- MUA**

**18.32.010. Purpose.**

**18.32.020. Uses permitted outright.**

**18.32.030. Conditional uses permitted.**

**18.32.035. Destination resorts.**

**18.32.040. Dimension standards.**

**18.32.050. Yards.**

**18.32.060. Stream setbacks.**

**18.32.070. Rimrock setback.**

**18.32.010. Purpose.**

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.

(Ord. 95-075 § 1, 1995)

**18.32.020. Uses permitted outright.**

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.
- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.

F. Noncommercial horse stables, excluding horse events.

G. Horse events, including associated structures, involving:

- 1. Fewer than 10 riders;
- 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
- 3. More than 25 riders, no more than two times per year on nonconsecutive days.

Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.

H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

I. Type 1 Home Occupation, subject to DCC 18.116.280.

(Ord. 2004-002 § 3, 2004; Ord. 2001-039 § 2, 2001; Ord. 2001-016 § 2, 2001; Ord. 94-008 § 10, 1994; Ord. 93-043 § 4, 1993; Ord. 93-001 § 1, 1993; Ord. 91-038 § 1, 1991; Ord. 91-020 § 1, 1991; Ord. 91-005 § 18, 1991; Ord. 91-002 § 6, 1991)

**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. Churches, 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 horse stables.
- BB. Horse events, including associated structures, not allowed as a permitted use in this zone.
- CC. Manufactured home park on a parcel in use as a manufactured home park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996, as a manufactured home park, including any expansion of such uses on the same parcel, as configured on June 12, 1996.
- DD. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- EE. Guest lodge.
- FF. 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.

(Ord. 2004-002 § 4, 2004; Ord. 2001-039 § 2, 2001; Ord. 2001-016 § 2, 2001; Ord. 97-063 § 3, 1997; Ord. 97-029 § 2, 1997; Ord. 97-017 § 2, 1997; Ord. 96-038 § 1, 1996; Ord. 94-053 § 2, 1994; Ord. 94-008 § 11, 1994; Ord. 93-043 §§ 4A and B, 1993; Ord. 92-055 § 2, 1992; Ord. 91-038 § 1, 1991; Ord. 91-020 § 1, 1991; Ord. 90-014 §§ 27 and 35, 1990; Ord. 91-005 §§ 19 and 20, 1991; Ord. 91-002 § 7, 1991; Ord. 86-018 § 7, 1986; Ord. 83-033 § 2, 1983; Ord. 80-206 § 3, 1980)

**18.32.035. Destination resorts.**

Destination resorts may be allowed as a conditional use, subject to all applicable standards of the DR Zone.

(Ord. 92-004 § 4, 1992)

**18.32.040. Dimension standards.**

In an MUA Zone, the following dimensional standards shall apply:

- A. The minimum lot size shall be 10 acres, except planned and cluster developments shall be allowed an equivalent density of one unit per seven and one-half acres and planned and cluster developments within one mile of an acknowledged urban growth boundary shall be allowed a five acre minimum lot size or equivalent density.
- B. The minimum average lot width shall be 100 feet and the minimum street frontage 50 feet.
- C. The minimum average lot depth shall be 150 feet.
- D. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.

(Ord. 92-055 § 3, 1992; Ord. 91-020 § 1, 1991)

**18.32.050. Yards.**

- A. The front yard setback from the property line shall be a minimum of ~~100 feet if such line is~~

~~adjacent to an intensive agricultural use; otherwise, the front yard shall be 20 feet for property fronting on a local street right of way, 30 feet from a property line fronting on a collector right of way, and 80 feet from an arterial right of way unless other provisions for combining accesses are provided and approved by the County.~~

- B. Each side yard shall be a minimum of 20 feet; ~~except on the street side, which shall be a minimum of 30 feet.~~ For parcels or lots created before November 1, 1979, which are one-half acre or less in size, the side yard setback may be reduced to a minimum of 10 feet. For parcels or lots adjacent to property receiving special assessment for farm use ~~an intensive agricultural use~~, the adjacent side yard for a dwelling shall be a minimum of 100 feet.
- C. Rear yards shall be a minimum of 25 feet; ~~except when~~ For parcels or lots with have rear yards adjacent to property receiving special assessment for farm use ~~an intensive agricultural use~~, the rear yards for a dwelling shall be a minimum of 100 feet.
- D. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

(Ord. 2005-011 § 1, 2005; Ord. 94-008 § 17, 1994; Ord. 91-020 § 1, 1991; Ord. 88-021 § 1, 1988; Ord. 83-037 § 9, 1983)

**18.32.060. Stream setbacks.**

To permit better light, air, vision, stream pollution control, fish and wildlife areas and to preserve the natural scenic amenities and vistas along the streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100

feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.

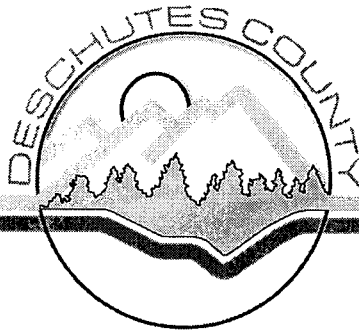
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

(Ord. 91-020 § 1, 1991)

**18.32.070. Rimrock setback.**

Setbacks from rimrock shall be as provided in DCC 18.116.160.

(Ord. 86-053 § 6, 1986)



## Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

### MEMORANDUM

**DATE:** February 24, 2005  
**TO:** Deschutes County Planning Commission  
**FROM:** Paul Blikstad, Associate Planner  
**RE:** Amendments to setbacks in the MUA-10 Zone

#### INTRODUCTION:

The Planning Division is proposing to amend the setback standards in the Multiple Use Agricultural (MUA-10) zone. The MUA-10 zone has been in place since the adoption of PL-15, the Deschutes County Zoning Ordinance, on November 1, 1979.

#### BACKGROUND:

The MUA-10 zone is a rural residential zone, consisting primarily of land not included in the Exclusive Farm Use zone, based mainly on existing lot sizes and development patterns. This zone was originally listed in the County Comprehensive Plan (1979 version) under the Agricultural Lands section as land that was designated "Marginal Farm Land – Developed." The one and only Plan policy that related to the MUA-10 zone was listed as follows:

- 9. *The Multiple Use Agricultural Zone shall allow planned developments, destination resorts, planned communities and cluster development as conditional uses where it can be shown these uses would be consistent with or beneficial to the maintenance of agricultural uses in that area. Except for Destination Resorts no overall densities in excess of the underlying minimum lot sizes will be permitted.***

In 1992, the County updated the Exclusive Farm Use Zone regulations and Comprehensive Plan to make them consistent with changes to State Law. As part of this update, the references to the MUA-10 zoned lands in the Agricultural Lands section of the Comprehensive Plan were removed because the zone does not qualify under state law as an exclusive farm use/resource land zone. The MUA-10 zone is no longer considered a part of the resource zone or agricultural lands designation.

**PROBLEM STATEMENT:**

The majority of existing lots or parcels in the MUA-10 zone are less than 10 acres in size; the 10-acre minimum lot size was placed on these lands to prevent further divisions of them. Additionally, many of the MUA-10 zoned lots or parcels are relatively narrow (300 feet or less), and the 100-foot setback from "intensive agricultural use" can and does cause structures to be placed in the middle of land, including land that may be irrigated. "Intensive agricultural use" can be any kind of agricultural use, whether it's pasture or dry ground grazing, or crops such as hay. It has been staff's experience in the field, that if there is farm use in the MUA-10 zoned areas, it is generally small pasture areas, with some livestock grazing. The pasture and/or livestock areas are somewhat limited due mainly to the smaller lot or parcel sizes, and/or the topography, such as rock outcrops, and poor soils, as well as the availability of irrigation water rights.

One very important additional problem encountered by staff is when building permit applications are taken in for dwellings or other structures in the MUA-10 zone. Since dwellings and other structures are uses permitted outright in the MUA-10 zone, a call must be made at the counter as to whether the adjacent land is in "intensive agricultural use." This can be difficult without a site visit to the area. Many times staff has to rely on aerial photos from 1996 in determining whether adjacent land is in "intensive agricultural use." Staff does not have the time to drive out to each and every parcel that is zoned MUA-10 in cases where permits are applied for.

The ordinance defines "intensive agricultural use" as any agricultural use where accepted farming practice may produce noise, dust, chemical application or other potential nuisance at any time during the year. Thus, while the reference is to an intensive use, the definition includes virtually all agricultural uses, including something as minor as dry land grazing.

<b>Existing Setbacks</b>	<b>Proposed Setbacks</b>
<p><b>Front Yard</b>            20 feet – local road            30 feet – collector road            80 feet – arterial road            100 feet- property adjacent to intensive agricultural use</p>	<p><b>Front Yard</b>            20 feet – local road            30 feet – collector road            80 feet – arterial road</p>
<p><b>Side Yard</b>            20 feet            30 feet street side            10 feet for parcels created prior to 11/1/79 and 1/2 acre or less in size            100 feet – property adjacent to intensive agricultural use</p>	<p><b>Side Yard</b>            20 feet            10 feet for parcels created prior to 11/1/79 and 1/2 acre or less in size            100 feet for dwellings adjacent to property receiving special assessment for farm use</p>
<p><b>Rear Yard</b>            25 feet            100 feet – property adjacent to intensive agricultural use</p>	<p><b>Rear Yard</b>            25 feet            100 feet for dwellings adjacent to property receiving special assessment for farm use</p>

For the **front setback** standards, Staff is proposing to amend the code to remove the 100-foot setback from "intensive agricultural use," to make it consistent with the EFU zone front setbacks, which do not differentiate a setback whether adjacent land is farmed or not. The setbacks would be measured from road rights of way, or if a property is not adjacent to a road, a front lot line as defined under section 18.04.030, Definitions. With a standard road right of way of 60 feet, this creates a minimum separation between farm use and any structure of 80 feet.

For the **side setback**, Staff is proposing to remove the "street side" language, since any property line adjacent to a street is considered a front lot line, which requires that the front setback be applied (i.e. a parcel that abuts more than one road or street has more than one front setback). Additionally, staff is proposing to remove the intensive agricultural use language and replace it with "property that is receiving special assessment for farm use," and have the 100-foot setback only apply to dwellings, which is how structures are regulated in the EFU zone. If the idea of special setbacks is to mitigate conflicting uses, then it makes sense to try to provide the buffer between residential use and farm use.

For the **rear setback**, Staff is proposing to remove the intensive agricultural use language and replace it with the same language as above, which only applies to dwellings. This is how structures are regulated in the EFU zone, with the 100-foot setback for nonfarm dwellings adjacent to properties in farm use.

#### **CONCLUSION:**

This proposed change in the setbacks for the MUA-10 zone has been contemplated by staff for a number of years. It is our belief that the existing setbacks are too restrictive. They are in fact more restrictive than the required setbacks in the EFU zone, which is intended for and has most of, actual farm use in the County. Staff would characterize most of the farming that does occur on MUA-10 zoned land as hobby farming.

Attached is a draft of the proposed changes. We have scheduled a public hearing before the Planning Commission on Thursday, March 10, 2005. If you should have any comments or questions, please direct them to me. (Phone: 388-6554; email: paulb@co.deschutes.or.us)