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91-29173

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, *
 Deschutes County Zoning Ordinance, *
 of the Deschutes County Code, *
 Concerning Clarification of *
 Standards, and New Standards for *
 Bed and Breakfast Inns, Campgrounds, *
 Fair Housing, Exclusive Farm Use *
 Zones, Nonconforming Uses, Home *
 Occupations, Fill and Removal, *
 Mini-storage Facilities, and *
 Variances, and Declaring an *
 Emergency. *

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 MARY SUE PENHOLLOW
 COUNTY CLERK

ORDINANCE NO 91-038

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

Section 1. AMENDMENTS TO EXISTING SECTIONS. The following sections of Title 18 of the Deschutes County Code, Deschutes County Zoning Ordinance, as numbered in the existing code are amended as set forth in Exhibit "A," attached hereto and by this reference incorporated herein:

- 18.04.030, Definitions of the following terms:
 "Conditional Use," "Farm Use," "Grade (Ground Level)," "Guest House," "Height of Building," "Livestock," "Lot Line, Front," "Lot of Record," "North Lot Line," "Partition," "Planned Community," "Plat," "Recreational Vehicle," "Dust Sensitive Uses," and "Noise Sensitive Uses"
- 18.16.010, (EFU-320) Purposes
- 18.16.020, (EFU-320) Uses Permitted Outright
- 18.16.030, (EFU-320) Conditional Uses Permitted
- 18.16.040, (EFU-320) Limitations on Specific Conditional Uses
- 18.16.050, (EFU-320) Dimensional Standards (renumbered in Exhibit A as 18.16.060)
- 18.16.060, (EFU-320) Yards (renumbered in Exhibit A as 18.16.070)
- 18.16.070, (EFU-320) Stream Setback (renumbered in Exhibit A as 18.16.080)
- 18.16.080, (EFU-320) Rimrock Setback (renumbered in Exhibit A as 18.16.090)
- 18.32.020, (MUA-10) Uses Permitted Outright
- 18.32.030, (MUA-10) Conditional Uses Permitted
- 18.36.030, (F-1) Conditional Uses Permitted
- 18.40.030, (F-2) Conditional Uses Permitted
- 18.44.030, (F-3) Conditional Uses Permitted
- 18.48.030, (OS & C) Conditional Uses Permitted
- 18.52.050(A), (SM) Conditional Uses Permitted

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- 18.60.030, (RR-10) Conditional Uses Permitted
- 18.60.020, (RSC) Uses Permitted Outright
- 18.64.030, (RSC) Conditional Uses Permitted
- 18.68.030, (RSR-M) Conditional Uses Permitted
- 18.76.030, (A-D) Conditional Uses Permitted
- 18.96.040, (FP) Conditional Uses Permitted
- 18.100.020, (R-I) Uses Permitted Outright
- 18.100.030, (R-I) Conditional Uses Permitted
- 18.104.030, (R & D) Uses Permitted Conditionally
- 18.108.020(A)(b), Districts Permitted in PC Zone
- 18.108.020(A)(d)(8), Districts Permitted in PC Zone
- 18.108.020(B)(b), Districts Permitted in PC Zone
- 18.108.020(C)(b), Districts Permitted in PC Zone
- 18.108.020(D)(b), Districts Permitted in PC Zone
- 18.108.020(E)(b), Districts Permitted in PC Zone
- 18.108.020(F)(b), Districts Permitted in PC Zone
- 18.108.020(G)(b), Districts Permitted in PC Zone
- 18.116.030(D)(d), Off-Street Parking and Loading -
Places of Public Assembly
- 18.116.030(D)(f), Off-Street Parking and Loading -
Commercial
- 18.116.030(D)(g), Off-Street Parking and Loading -
Industrial
- 18.116.030(F)(d), Development and Maintenance
Standards for Off-Street Parking
Areas
- 18.116.040, Accessory Uses
- 18.116.120, Fences
- 18.116.180(B)(a), Building Setbacks for the Protection
of Solar Access - South Wall
Protection Standard
- 18.116.180(B)(b), Building Setbacks for the Protection
of Solar Access - South Roof
Protection Standard
- 18.116.200, Timeshare Unit (moved and renumbered)
- 18.120.010, Nonconforming Uses
- 18.120.050, Fill and Removal Exceptions
- 18.124.030, (Site Plan) Approval Required
- 18.124.060, (Site Plan) Approval Criteria
- 18.128.020, (Conditional Use) Conditions
- 18.128.040(G), Home Occupations
- 18.128.040(M), Recreational Vehicle Park
- 18.128.040(U)(b)(4), High Temperature Geothermal
Wells and Small-Scale
Geothermal Energy Facilities
- 18.128.040(W), Fill and Removal

Section 2. CONSOLIDATION OF FARM ZONE CHAPTERS. Chapter 18.16, EFU-320, is renamed "EFU Zones." To further effect the consolidation of farm zones into one code chapter, sections in Chapter 18.16 are amended and a new section is added to Chapter 18.16 as set forth herein, and sections in Chapters 18.20, 18.24 and 18.28 are repealed as set forth herein.

Section 3. ADDITION OF NEW SECTIONS. The following new provisions are added to and made a part of Title 18 of the Deschutes County Code, as set forth and numbered in Exhibit "A", attached hereto and by this reference incorporated herein:

Sections 18.04.030, Definitions of the following terms:
 "Bed and Breakfast Inn," "Campground,"
 "Church," "Clear Vision Area,"
 "Commercial Agricultural Enterprise,"
 "Condominium," "Conflicting Use,"
 "Goal 5 Resource," "Historic Site,"
 "Intensive Agricultural Use," "Lodge,"
 "Major Partition," "Mini-Storage,"
 "Minor Partition," "Partition Plat,"
 "Planned Unit Development," "Pole
 Height," "Prospect Well,"
 "Recreational Vehicle Park," "Replat,"
 "Residential Facility," "Residential
 Home," "School, Private," "School,
 Public," "Service Establishment,"
 "Subdivision Plat," "Zero Lot Line,"
 and "Excavation, Grading and Fill and
 Removal"

18.16.050, Standards for Dwellings in the EFU
 Zones;
 18.88.070, (WA) Additional Requirements
 18.116.010, Authorization of Similar Uses
 18.116.200, Recreational Vehicle on an Individual
 Lot
 18.116.210, Residential Homes and Residential
 Facilities
 18.128.015, General Standards Governing
 Conditional Uses
 18.128.090, Building Permit for an Approved
 Conditional Use
 18.128.040(Z), (Conditional Uses) Mini-Storage
 Facility
 18.128.040(AA), (Conditional Uses) Bed and
 Breakfast Inn
 18.128.040(BB), (Conditional Uses) Campgrounds
 18.132.025, Minor Variances

Section 4. REPEAL. The following sections of Title 18 of the Deschutes County Code, Deschutes County Zoning Ordinance, as numbered in that existing code, are hereby repealed:

Sections 18.04.030, Definitions of the terms "Affected
 Persons," "Camp, Tourist or Trailer
 Park," "Camping Vehicles," and "Vision
 Clearance Area,"
 18.20.010, (EFU-80) Purposes
 18.20.020, (EFU-80) Use Permitted Outright
 18.20.030, (EFU-80) Conditional Uses

- 18.20.040, (EFU-80) Limitations on Specific Conditional Uses
- 18.20.050, (EFU-80) Dimensional Standards
- 18.20.060, (EFU-80) Yards
- 18.20.070, (EFU-80) Stream Setbacks
- 18.20.080, (EFU-80) Rimrock Setbacks
- 18.24.010, (EFU-40) Purposes
- 18.24.020, (EFU-40) Use Permitted Outright
- 18.24.030, (EFU-40) Conditional Uses
- 18.24.040, (EFU-40) Limitations on Specific Conditional Uses
- 18.24.050, (EFU-40) Dimensional Standards
- 18.24.060, (EFU-40) Yards
- 18.24.070, (EFU-40) Stream Setbacks
- 18.24.080, (EFU-40) Rimrock Setbacks
- 18.28.010, (EFU-20) Purposes
- 18.28.020, (EFU-20) Use Permitted Outright
- 18.28.030, (EFU-20) Conditional Uses
- 18.28.040, (EFU-20) Limitations on Specific Conditional Uses
- 18.28.050, (EFU-20) Dimensional Standards
- 18.28.060, (EFU-20) Yards
- 18.28.070, (EFU-20) Stream Setbacks
- 18.28.080, (EFU-20) Rimrock Setbacks
- 18.116.010, Access-Minimum Lot Frontage
- 18.116.060, Manufactured Home Installation Standards
- 18.116.110, Lot Size Reduction
- 18.140.090, Lot Size Requirements

Section 5. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of any ordinance or portion thereof by this ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability incurred under such ordinance, unless a provision of this ordinance shall so expressly provide, and for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who violated the repealed ordinance.

Section 6. CORRECTIONS. This ordinance may be corrected by order of the Board of Commissioners to cure editorial and clerical errors.

Section 7. CODIFICATION. The changes adopted by this ordinance may be codified by the Office of Legal Counsel and/or the Planning Division in a form acceptable to the Office of Legal Counsel, including any renumbering and insertion of legislative history made necessary by the adoption of the changes provided for in this ordinance.

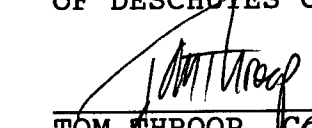
Section 8. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this

ordinance is adjudged to be invalid by a court of competent jurisdiction that that decision shall not affect the validity of the remaining portions of this ordinance.

Section 9. 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 30th day of September, 1991.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



TOM THROOP, Commissioner

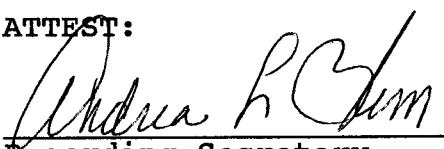


NANCY POPE SCHLANGEN, Commissioner



DICK MAUDLIN, Chairman

ATTEST:



Recording Secretary

SECTION 18.04.030, Definitions, is amended by the deletion of the following:

Affected Persons. Includes those owners of record of real property located within a minimum distance of 250 feet, exclusive of public street and other right-of-way, from the property subject to a permit required by this ordinance.

Camp, Tourist or Trailer Park. Any area or tract of land used or designed to accommodate two or more trailers, or two or more camping vehicles, tents or outfits, including cabins, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

Camping Vehicles. A vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use intended for human occupancy and being used for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet.

Vision Clearance Area. A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no planting, walls, structures, or temporary or permanent obstructions exceeding two and one-half feet in height measured from the grade of the street centerline.

SECTION 18.04.030, Definitions, is amended by the addition of the following:

Bed and Breakfast Inn. A single-family dwelling unit where lodging and meals are provided for compensation, in which no more than three (3) guest rooms are provided for no more than eight (8) guests. A guest shall not rent for a time period longer than thirty (30) consecutive days.

Campground. An area designed for overnight, temporary use where facilities are provided to accommodate camping for two or more tents or recreational vehicles. A campground shall not include campsite utility hook-ups or commercial activities.

Church. An institution that has non-profit status as a church established with the Internal Revenue Service.

Clear Vision Area. A triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining [abutting] the street or railroad measured from the corner to a distance specified in Section 18.116.020(B) of this title. Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines.

Commercial Agricultural Enterprise. Farm operations which will:

- A. Contribute in a substantial way to the area's existing agricultural economy; and
- B. Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

Condominium. A type of ownership defined by state statute as the land, if any, whether leasehold or in fee simple, and whether contiguous or not contiguous; any buildings, improvements and structures on the property; and any easements, rights and appurtenances belonging to the property which are submitted to the provisions of ORS 100.050 to 100.625.

Conflicting Use. A land use which could negatively impact or be negatively impacted by a Goal 5 resource.

Excavation, Grading and Fill and Removal. As used in this title, these activities shall not include practices that constitute accepted

farming practices as defined in ORS Chapter 215.

Goal 5 Resource. Open spaces, scenic and historic areas and natural resources as specified in Goal 5 of Oregon's Statewide Planning Goals and its implementing Administrative Rule, OAR 660, Division 15.

Historic Site. A location, structure or object having local, regional, statewide or national historic significance as indicated in the Comprehensive Plan Resource Element.

Intensive Agricultural Use. Any agricultural use where accepted farming practice may produce noise, dust, chemical application or other potential nuisance at any time during the year.

Lodge. A structure or group of related structures wherein transient eating and/or sleeping accommodations are provided for a fee in connection with outdoor recreation activities.

Major Partition. A partition which includes the creation of a road or street.

Mini-Storage. Commercial development of multiple storage units for rental to the public.

Minor Partition. A partition that does not include the creation of a road or street.

Partition Plat. The final map describing parcels created by partition and other writing as specified in the subdivision and partition ordinance containing all other descriptions, locations, specifications, dedications, provisions and information concerning a major or minor partition.

Planned Unit Development. See "Planned Development."

Pole Height. The height of the point on a building that casts the longest shadow on the north side of the building as measured between 10:00 a.m. and 2:00 p.m. on December 21.

Prospect Well. Any well drilled as a geophysical test well, seismic shot hole, mineral exploration drilling, core drilling or temperature gradient test well less than 2,000 feet in depth. Prospect well does not include a geothermal well as defined in this section.

Recreational Vehicle Park. A park intended, designed or utilized for temporary occupancy primarily by recreational vehicles.

Replat. Includes a final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, locations, specifications, dedications and provisions and information concerning a recorded partition or subdivision plat.

Residential Facility. A facility licensed by or under the authority of the Department of Human Resources which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

Residential Home. A home licensed by or under the authority of the Department of Human Resources which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

School, Private. Any licensed or accredited private entity that offers instruction or training for any academic, technical or identified occupational objective.

School, Public. A school operated by a government agency.

Service Establishment. A business selling a service and products directly related to that service. Service establishment includes, but is not limited to, shoe or appliance repair; hair cutting and styling; realtor; interior decorator; upholsterer; pet grooming; optician and travel agent. An automobile repair garage or

medical office is not a service establishment for the purposes of this title.

Subdivision Plat. The final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

Zero Lot Line. The location of a building on a lot or parcel in such a manner that one or more of the building's sides coincides with a lot line.

SECTION 18.04.030, Definitions, is amended by the changes to the following definitions:

Conditional Use. A use that may be permitted, **permitted with conditions** or denied at the discretion of the hearings body based upon findings of fact as required by this title, [and] the County Uniform Development Procedures Code and the Comprehensive Plan. (Ord. 86-032 § 1, 1986)

Dust-Sensitive Use. Real property normally used as a residence, school, church, hospital or similar use. Property used in industrial or agricultural activities is not "dust-sensitive" unless it meets the above criteria in more than an incidental manner. **Accessory uses such as garages and workshops do not constitute dust-sensitive uses.** (Ord. 90-014 § 2, 1990)

Farm Use. The current employment of land for the primary purpose of obtaining profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. **Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species.** Farm use does not include the use of land subject to the provisions of ORS Chapter 321, except land

used exclusively for growing cultured Christmas trees.

Grade (Ground Level). The average [elevation] of the finished ground elevations at the centers of all walls of a building. [walk.] The [sidewalk] elevation nearest the center of the wall shall constitute the ground level [elevation].

Guest House. Living quarters within a detached accessory building located on the same lot as the main building for use by temporary guests of the occupants of the main premises, not rented or otherwise used as a separate dwelling. **A guest house shall contain no kitchen, kitchenette or other cooking facilities.**

Height of Building. The vertical distance from [the] grade to the highest point of the roof. [coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on other types of roof.]

Livestock. Domestic animals of types customarily raised or kept on farms for profit or other productive purposes. **This definition does not include household dogs and cats.**

Lot Line, Front. The lot line separating a lot from a street other than an alley. [In the case of a corner lot, the longest lot line along a street other than an alley.] **In the case of a lot that does not front directly on any street, the front lot line shall be that lot line parallel to and facing the same direction as the front lot lines of the majority of other properties in the immediate area.**

J. **Lot of Record.**

a. A lot or parcel at least 5,000 square feet in area and at least 50 feet wide, which conformed to all zoning and subdivision or partition requirements, if any, in effect on the date the lot or parcel was created, and which was created by any of the following means:

1. By partitioning land as defined in ORS Chapter 92 [92.010(8)];

2. By a subdivision plat, as defined in ORS Chapter 92 [92.010(9)], filed with the Deschutes County Surveyor and recorded with the Deschutes County Clerk;

3. By deed or contract, dated and signed by the parties to the transaction, containing a separate legal description of the lot or parcel, and recorded in Deschutes County if recording of the instrument was required on the date of the conveyance. If such instrument contains more than one legal description, only one lot of record shall be recognized unless the legal descriptions describe lots subject to a recorded subdivision or town plat;

4. By a town plat filed with the Deschutes County Clerk and recorded in the Deschutes County Record of Plats; or

5. By the subdividing or partitioning of adjacent or surrounding land, leaving a remainder lot or parcel.

b. The following shall not be deemed to be a lot of record:

1. A lot or parcel created solely by a tax lot segregation because of an assessor's roll change or for the convenience of the assessor.

2. A lot or parcel created by an intervening section or township line or right-of-way.

3. A lot or parcel created by an unrecorded subdivision, unless the lot or parcel was conveyed subject to paragraph (a)(3) of this section.

4. A parcel created by the foreclosure of a security interest.

For the purposes of this title, "lot" or "parcel" means a lot of record as defined herein. (Ord. 88-009 § 1, 1988; Ord. 87-015 § 1, 1987)

Noise-Sensitive Use. Real property normally used for sleeping or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not "noise-sensitive" unless it meets the above criteria in more than an incidental manner. Accessory uses such as garages or workshops do not constitute noise-sensitive uses. (Ord. 90-014 § 2, 1990)

North Lot Line. A lot line that requires solar access protection as specified in [For the purposes of] Section 18.116.180[, Building Setbacks for the Protection of Solar Access,

the north lot line shall be the northerly edge of the lot on which an applicant's structure is located, unless directly north of the lot is an unbuildable area, in which case north lot line means the northerly edge of the buildable area.] that is 45 degrees or more from a north-south axis as determined by a metes and bounds description established on a County Assessor's tax lot map, verified by a survey filed with the County Surveyor or established by an official plat recorded in the County Clerk's Office. If more than one north lot line exists for a parcel or lot, solar protection shall be required for each line and the most restrictive solar setback must be met. (Ord. 91-020 § 1, 1991; Ord. 83-037 § 2, 1983)

Partition. An act of partitioning land or an area or tract of land partitioned as defined under [in Section 18.04.030,] "Partition Land." [below.]

Planned Community. A self-contained complex of residential, commercial and industrial uses in the form of a planned development in conjunction with a master plan with an interrelated system for transportation, utilities, recreational areas and other public facilities all of which constitute[ing] a separate community which is [within the county and] at least 640 [160] acres in size. Sunriver is an example of a planned community.

Plat. A final map or diagram concerning a subdivision or partition. Includes a subdivision plat, replat or partition plat. [, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.]

Recreational Vehicle. A mobile [vacation trailer or other] unit [with or without motive power] which is designed for temporary human occupancy and licensed as a motor home, recreational trailer or camper by the Oregon Motor Vehicles Division or similar units licensed by another state.[to be used temporarily for recreational or emergency purposes, having a floor space of less than 220 square feet, excluding built-in equipment

such as wardrobes, closets, cabinets, kitchen units or fixtures and bath or toilet rooms.]

CHAPTERS 18.16, EFU-320; 18.20, EFU-80; 18.24, EFU-40 and 18.28, EFU-20 are repealed and replaced with the following Chapter 18.16.

**Chapter 18.16
Exclusive Farm Use Zones**

Sections:

- 18.16.010 Purposes**
- 18.16.020 Uses Permitted Outright**
- 18.16.030 Conditional Uses Permitted**
- 18.16.040 Limitations on Conditional Uses**
- 18.16.050 Standards for Dwellings in the EFU Zones**
- 18.16.060 Dimensional Standards**
- 18.16.070 Yards**
- 18.16.080 Stream Setbacks**
- 18.16.090 Rimrock Setback**

Section 18.16.010, Purposes, is amended to read as follows:

18.16.010 Purposes.

The purposes of the Exclusive Farm Use Zones are to preserve and maintain agricultural lands for farm use, particularly range and grazing uses, consistent with existing and future needs for agricultural products, forests and open spaces; [to conserve and protect products, forests and open spaces;] to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county and to establish criteria and standards for farm uses and related and supportive uses which are deemed appropriate.

Section 18.16.020, Uses Permitted Outright, is amended to read as follows:

**18.16.020 Uses Permitted
Outright.**

The following uses and their accessory uses are permitted outright: (Ord. 91-020 § 1, 1991)

A. Farm use as defined in [ORS 215.203(2)] **this title**.

B. Propagation or harvesting of a forest product.

[C. Utility facility necessary for public services, except landfills or commercial facilities for the purpose of generating power for public use by sale.]

[D. Dwellings, manufactured homes in accordance with Section 18.116.070 and other buildings customarily provided in conjunction with farm use as defined in ORS 215.203(2)(a).]

[E. Public or private schools.]

[F. Churches.]

[G]. Exploration for minerals. (Ord. 91-002 § 3, 1991)

D. **Accessory buildings customarily provided in conjunction with farm use.**

E. **Climbing and passing lanes within a right-of-way existing as of July 1, 1987.**

F. **Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur or no new land parcels result.**

G. **Temporary public road or highway detour that will be abandoned and restored to original condition or use when no longer needed.**

H. **Minor betterment of existing public roads and highway-related facilities such as maintenance yards with stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous publicly owned property utilized to support the operation and maintenance of public roads and highways.**

I. **An additional dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as an historic property as defined in ORS 358.480.**

J. Creation, restoration or enhancement of wetlands.

Section 18.16.030, Conditional Uses Permitted, is amended to read as follows:

18.16.030 Conditional Uses Permitted.

The following uses may be allowed in the Exclusive Farm Use Zones subject to applicable provisions of the Comprehensive Plan, Sections 18.16.040 and 18.16.050 and other applicable sections of this title.

A. Farm-related dwellings.

B. Farm-related dwelling on a parcel less than the minimum lot size.

C[D]. Manufactured home as a secondary accessory farm dwelling.

D[N]. Pre-existing dwelling as a ranch hand residence. [provided there shall not be more than one such conditional use permitted for each 20 acres in the farm unit and the Planning Director or Hearings Body finds that the occupant of the dwelling will be an employee of the owner, or an immediate family member, engaged in the farm operation. No parcel of less than 20 acres shall be considered a farm unit for the purpose of this subsection unless it is demonstrated to the Planning Director or Hearings Body that a smaller land unit is a commercial agricultural enterprise.] (Ord. 91-020 § 1, 1991; Ord. 83-028 § 1, 1983)

E. Non-farm dwelling and accessory uses thereto.

[E. Single-family residential dwellings as defined in ORS 215.213(3).]

F[A]. Commercial activities that are 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.

G[B]. Operations conducted for exploration, mining and processing of geothermal resources as defined by ORS 522.005; exploration and extraction of natural gas or oil; and

surface mining mineral and aggregate resources exclusively for on-site personal, farm or forest use or in conjunction with maintenance for irrigation canals.

H[C]. Homestead retention when the entire parcel has been under single ownership for at least the preceding ten consecutive years and the parcel occupies not less than 320 acres. This use will permit the owner to convey the parcel but retain a leasehold interest in the residence and the land underlying the residence up to a maximum of five acres. In no case shall another residence be constructed elsewhere on the parcel except in conformance with the terms of this chapter. The leasehold interest shall extend throughout the lifetimes of the seller and his or her spouse.

I[F]. Private parks, playgrounds, hunting and fishing preserves and campgrounds.

J[G]. Parks, playgrounds or community centers owned and operated by a governmental agency or a non-profit community organization.

K[H]. Golf courses.

L[I]. Utility facilities necessary for public service and commercial utility facilities for the purpose of generating power for public use by sale.

M[J]. Personal-use landing strip for airplanes and helicopter pad, including associated hangar, maintenance and service facilities. A personal use airport as used in this section 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. No aircraft may be based on a personal-use airport 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 airport lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division. (Ord. 91-020 § 1, 1991)

N[K]. Home occupations carried on by residents as an accessory use within their dwelling or other building customarily provided in conjunction with farm use.

O[L]. A facility for the primary processing of forest products[, provided that such a facility is found to not seriously interfere with accepted farming practices and is compatible with farm use 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 this section, 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 this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

P[M]. The boarding, breeding and training of horses for profit.

Q[O]. Hydroelectric facility, in accordance with Sections 18.116.130 and 18.128.040(V). (Ord. 86-018 § 3, 1986)

R. Dog kennels. (Ord. 90-018 § 1, 1990)

S. 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.

T. A site for the disposal of solid waste approved by the governing body of a city or county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality. [Landfills tentatively approved by the Department of Environmental Quality.] (Ord. 91-014 § 1, 1991)

U. One manufactured home 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.

V. Church.

W. Public or private school, including all buildings essential to the operation of such a school.

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

Y. 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.

Z. Improvement of public roads 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.

AA. The propagation, cultivation, maintenance and harvesting of aquatic species.

BB. Bed and breakfast inns.

CC. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland.

DD. Cemeteries in conjunction with churches.

EE. Living history museums.

Section 18.16.040, Limitations on Conditional Uses, is amended to read as follows:

18.16.040 **Limitations on Conditional Uses.**

[The following limitations shall apply to a conditional use in an EFU-320 Zone:]

A. Conditional uses permitted by 18.16.030(F) through (EE) may be established on non-productive agricultural lands subject [to the criteria set forth in paragraph (B) of this section] to applicable provisions in **Chapter 18.128** and upon a finding by the Planning Director or Hearings Body that the proposed use:

a. Is compatible with farm uses described in this title [ORS 215.143], the intent and purpose set forth in ORS 215.143 and the Comprehensive Plan;

b. Will not force a significant change in or otherwise seriously interfere with accepted

farm or forest practices (as defined in ORS 215.203(2)(c)) on adjacent lands devoted to farm or forest uses **and will not significantly increase the cost of accepted farm or forest practices on such lands;**

c. Does not materially alter the stability of the overall land use pattern of the area;

d. [Is situated upon generally unsuitable land for the production of farm crops and livestock, considering terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract] **That the actual site on which the use is to be located is not suitable for the production of farm crops or livestock; and**

e[h]. Is not located within one-quarter mile of a dairy farm, feed lot, sales yard, slaughterhouse or poultry, hog or mink farm, unless adequate buffers are provided and approved. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of such proposed use or the agriculture of the area. (Ord. 91-020 § 1, 1991)

B. **In determining whether the above standards can be met, the Planning Director or Hearings Body shall consider:** [Criteria to evaluate conditional uses:] (Ord. 91-011 § 1, 1991)

a. Immediate and future impacts on public services, existing road systems and traffic demands and irrigation distribution systems;

b. Soil types and their limitations, including slides, erosion, flooding and drainage, and provisions to minimize possible adverse effects resulting therefrom;

c. Agricultural productivity, including food productivity and the production of any useable agricultural product that requires open space and a non-urban environment;

d. **Whether the proposed development minimizes potential adverse effects on terrain, slope and ground cover;**

e. **Whether the proposed development is compatible with the existing land use pattern and the character of the overall area;**

f. **The existence of adequate quantity and quality of water, either subsurface or other sanitary disposal system and adequate provisions for solid waste disposal; and**

g. **Conversion of agricultural lands to non-farm uses shall be based upon consideration of the following factors:**

1. **Environmental, energy, social and economic consequences.**

2. **Compatibility of the proposed use with related agricultural land.**

3. **The retention of Class I through VI soils in farm use.**

C. **An applicant for a non-farm conditional use may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.**

A new section, to be numbered Section 18.16.050, Standards for Dwellings in the EFU Zones, is added as follows:

18.16.050 Standards for Dwellings in the EFU Zones.

A. **Farm-Related Dwelling. One farm-related dwelling, including a manufactured home in accordance with Section 18.116.070, may be permitted on a legally established farm parcel, subject to the following criteria:**

a. **The proposed dwelling is the only dwelling on the subject parcel.**

b. **The subject parcel meets the minimum lot size established in the zone.**

c. **The subject parcel is currently employed in farm use.**

d. **The dwelling is one that is customarily provided in conjunction with the current farm use on the property.**

e. **The dwelling will be located on the least productive part of the parcel.**

B. **Farm-Related Dwelling on a Lot Less Than the Minimum Lot size. One single-family dwelling, including a manufactured home in accordance with Section 18.116.070,**

may be permitted on a pre-existing nonconforming lot as defined in Section 18.04.030 and 18.120.020, subject to the provisions of 18.16.040 and the following criteria:

a. The lot is currently employed for farm use where the day to day activities are principally directed to the farm use of the land.

b. The lot is of sufficient size to demonstrate commercial production of food, fiber or livestock using innovative and/or intensive farming practices during at least two of the previous three years.

c. The growing season, soil, water and energy are adequate and available for the planned farm use.

d. The markets for the farm product are demonstrable.

e. The proposed dwelling on the lot will not adversely affect adjacent and surrounding commercial agricultural operations.

f. The proposed dwelling on the lot will not force a significant change in or significantly increase the cost of accepted farming practices on nearby agricultural land.

g. The lot and the farm use on it are appropriate for the continuation of the existing commercial agricultural operations in the area.

h. The dwelling will be located on the least productive part of the parcel.

C. Secondary Accessory Farm Dwelling. A manufactured home as a secondary accessory farm dwelling in accordance with Section 18.116.070 may be permitted subject to the following criteria:

a. An owner-occupied farm dwelling must exist on the farm unit.

b. A secondary accessory farm dwelling is not permitted on a parcel less than 40 acres unless it is demonstrated to the Planning Director or Hearings Body that a smaller land unit is a commercial agricultural enterprise.

c. No more than one secondary accessory farm dwelling is permitted for each 40 acres of the farm unit.

d. The occupant of the manufactured home shall be an employee of the farm owner or an immediate family member engaged in the farm operation.

e. The manufactured home shall be considered a temporary installation and permits for such units shall be renewable on an annual basis.

f. The manufactured home shall be removed from the property if it is no longer needed for the operation of the farm.

D. A Pre-Existing Dwelling as a Ranch Hand Residence may be permitted subject to the following criteria:

a. The occupant of the dwelling shall be an employee of the farm owner or an immediate family member engaged in the farm operation.

b. The farm unit shall be a minimum of 40 acres unless it is demonstrated to the Planning Director or Hearings Body that a smaller land unit is a commercial agricultural enterprise.

c. No more than one pre-existing dwelling may be permitted as a ranch hand residence for each 40 acres of the farm unit.

E. Non-farm Dwelling. One single-family dwelling, including a manufactured home in accordance with Section 18.116.070, not provided in conjunction with farm use may be permitted subject to the provisions of Section 18.16.040 and the following criteria:

a. The Planning Director or Hearings Body shall make findings that the proposed non-farm dwelling:

1. Is compatible with farm uses described in ORS 215.203(2) and is consistent with the intent and purpose set forth in ORS 215.243.[, the Comprehensive Plan and this ordinance.]

2. Does not seriously interfere with accepted farming practices [as defined in ORS 215.203(2)(c)] on adjacent lands devoted to farm uses.

3. Does not materially alter the stability of the overall land use pattern of the area.

4. Is situated on land generally unsuitable for the production of farm crops and

livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

5. Is not [located] within one-quarter mile of a dairy farm, feed lot, sales yard, slaughterhouse or poultry, hog or mink farm, unless adequate provisions are made [provided] 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 non-farm dwelling or [such proposed use of] the agriculture of the area. (Ord. 91-020 § 1, 1991)

b. In addition to the above findings, the following factors shall be considered when reviewing an application for a non-farm dwelling:

1. Immediate and future impact on public services, existing road systems, [and] traffic demands and irrigation distribution systems.

2. Soil type and its development limitations, including susceptibility to slides, erosion, flooding and drainage.

3. An adequate quantity and quality of water and either subsurface or other sanitary disposal system. [and adequate provisions for solid waste disposal.]

c. Pursuant to ORS 215.236, a non-farm 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 for special assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815, and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

d. A parcel that has been disqualified for special assessment at value for farm use pursuant to ORS 215.236(4) shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

Section 18.16.050, Dimensional Standards, is renumbered Section 18.16.060 and amended to read as follows:

18.16.060 Dimensional Standards.

A. The minimum lot size for farm parcels created by partition subject to Title 17 of the Deschutes County Code shall be:

EFU-20 zone	20 acres
EFU-40 zone	40 acres
EFU-80 zone	80 acres
EFU-320 zone	320 acres

B. New farm parcels created by partition shall be appropriate for the continuation of existing agricultural enterprise in the area.

C. The minimum lot area for all non-farm uses permitted by Section 18.16.030(E) through (BB) shall be that determined by the Planning Director or Hearings Body to carry out the intent and purposes of ORS Chapter 215, this title and the Comprehensive Plan. In no case shall lot areas be less than one acre.

D. Each lot shall have a minimum street frontage of 50 feet.

E. The minimum average lot depth and width for new parcels shall be:

EFU-20 zone	300 feet
EFU-40 zone	600 feet
EFU-80 zone	1000 feet
EFU-320 zone	2000 feet

Section 18.16.060, Yards, is renumbered 18.16.070 and amended to read as follows:

18.16.070 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 for 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 **Deschutes County Public Works** [the county].

B. Each side yard shall be a minimum of 20 feet, except that on corner lots or parcels, a side yard **fronting a street and** adjacent to an intensive agricultural use [, the adjacent side yard] shall be a minimum of 30 feet. [and] For parcels or lots with side yards adjacent to an intensive agricultural use, the adjacent side yard shall be a minimum of 100 feet.

C. Rear yards shall be a minimum of 25 feet, except [parcels or lots with] a rear yard adjacent to an intensive agricultural use[, the rear yards] shall be a minimum of 100 feet.

D. The setback from the north lot line shall meet the solar setback requirements in Section 18.116.180. (Ord. 83-037 § 8, 1983)

Section 18.16.070, Stream Setbacks, is renumbered Section 18.16.080 and amended to read as follows:

18.16.080 Stream Setbacks.

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and **preservation of** [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)

Section 18.16.080, Rimrock Setback, is renumbered 18.16.090.

18.16.090 Rimrock Setback.

Setbacks from rimrock shall be as provided in Section 18.116.160. (Ord. 86-053 § 5, 1986)

SECTION 18.32.020, Multiple Use Agriculture Zone, is amended to read as follows:

18.32.020 Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

A. Uses permitted outright in the EFU[-20] zones, **except where such uses are listed as conditional uses under Section 18.32.030.**

B. Single-family dwellings and accessory uses.

C. Manufactured homes in accordance with Section 18.116.070. (Ord. 91-002 § 6, 1991)

SECTION 18.32.030, Conditional Uses Permitted, MUA Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

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 Sections 18.120.050 and 18.128.040(W).**

SECTION 18.32.030(J), Conditional Uses Permitted, MUA Zone, is amended as follows:

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. (Ord. 91-020 § 1, 1991)

SECTION 18.36.030, Conditional Uses Permitted, F-1 Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

D. Campground.

E. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.40.030, Conditional Uses Permitted, F-2 Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

R. Campground.

S. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.40.030(E), Conditional Uses Permitted, F-2 Zone, is amended as follows:

E. Personal-use landing strips for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use landing strip as used in this section 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. 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. (Ord. 91-020 § 1, 1991)

SECTION 18.44.030, Conditional Uses Permitted, F-3 Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

S. Campground.

T. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.44.030(E), Conditional Uses Permitted, F-3 Zone, is amended as follows:

E. Personal-use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use landing strip as used in this section 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. 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. (Ord. 91-020 § 1, 1991)

SECTION 18.48.030, Conditional Uses Permitted, OS&C Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

I. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.52.050(A), Conditional Uses Permitted, SM Zone, is amended by the addition of the following:

c. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.60.030, Conditional Uses Permitted, RR-10 Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

M. Bed and breakfast inn.

N. Golf course.

O. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

P. Church.

SECTION 18.60.030(E), Conditional Uses Permitted, RR-10 Zone, is to read as follows:

E. Personal-use landing strip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use landing strip as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guests. 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 Aero-

navics 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. (Ord. 91-020 § 1, 1991)

SECTION 18.64.020, Uses Permitted Out-right, RSC Zone, is amended and renumbered by the following changes:

[G. Church, school or cemetery.]

SECTION 18.64.030, Conditional Uses Permitted, RSC Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

O. Mini-storage facility.

P. Church, school or cemetery.

Q. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.68.030, Conditional Uses Permitted, RSR-M Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

J. Bed and breakfast inn.

K. Multi-family housing where community or municipal sewer is available.

L. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

M. Mobile home park subject to the density of the underlying zone.

SECTION 18.76.030, Conditional Uses, A-D Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

I. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

CHAPTER 18.88, Wildlife Area Combining Zone, is amended by the addition of the following section:

18.88.070 Additional Requirements.

Fencing in a Wildlife Area Combining Zone shall be to design standards which provide for safe migration of protected animals.

SECTION 18.96.040, Conditional Uses Permitted, FP Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

K. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.100.020, Uses Permitted Outright, R-I Zone, is amended and renumbered by the deletion of the following:

[A. Automotive wrecking yard totally enclosed by a sight-obscuring fence.]

SECTION 18.100.030, Conditional Uses, R-I zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

Q. Mini-storage facility.

R. Automotive wrecking yard totally enclosed by a sight-obscuring fence.

S. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.104.030, Uses Permitted Conditionally, R&D Zone, is amended by the addition of the following:

The following uses may be allowed subject to Chapter 18.128 of this title:

...

F. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(A)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit:

...

6. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(A)(d)(8), Districts Permitted in a PC Zone, is amended to read as follows:

8. The setback from the north lot line shall meet the solar setback requirements in Section 18.116.170(B)(b), South Roof Protection Standard [18.116.180]. (Ord. 83-037 § 22, 1983)

SECTION 18.108.020(B)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following conditional uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit.

...

8. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(C)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following conditional uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit.

...

16. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(D)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following conditional uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit:

...

10. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(E)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following conditional uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit.

...

7. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(F)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

3. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

SECTION 18.108.020(G)(b), Districts Permitted in a PC Zone, is amended by the addition of the following:

The following conditional uses may be permitted subject to Chapter 18.128 of this title and a conditional use permit:

...

6. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W).

CHAPTER 18.116, Supplementary Provisions, is amended by the deletion of Section 18.116.010, Access-Minimum Lot Frontage.

CHAPTER 18.116, Supplementary Provisions, is amended by the addition of the following section:

18.116.010 Authorization of Similar Uses.

A. The purpose of this section is to, consistent with provisions of state law, provide for land uses not specifically listed in any zone, but which are similar in character, scale, impact and performance to a permitted or conditional use specified in a particular zone.

B. Review Criteria. A similar use may be authorized by the Planning Director or Hearings Body provided that the applicant establishes that the proposed use meets the following criteria:

a. The use is not listed specifically in any zone;

b. The use is similar in character, scale, impact and performance to one or more of the permitted or conditional uses listed for the zone in which it is proposed; and

c. The use is consistent with any applicable requirements of state law with respect to what uses may be allowed in the particular zone in question.

Any similar use authorized by the Planning Director or Hearings Body shall conform to the applicable standards and requirements of the zone in which it is located, including any requirements for conditional use review set forth in Chapter 18.128.

C. Procedure:

a. A property owner may initiate a request for authorization of a similar use by filing an application with the Planning Division on forms prescribed by the Division.

b. The Planning Director or Hearings Body shall consider a request for authorization of a similar use under the requirements of Title 22, the Deschutes County Uniform Development Procedures Ordinance.

SECTION 18.116.030(D)(d), (f) and (g),
Off-Street Parking and Loading, is amended
to read as follows:

d. PLACES OF PUBLIC ASSEMBLY

Church:	1 space per 4 seats or 8 feet of bench length in the main auditorium or 1 space for each 50 sq. ft. of floor area used for assembly.
Library, reading room, museum, art gallery:	1 space per 400 sq. ft. of floor area plus 1 space per 2 employees.
Pre-school, nursery or kindergarten:	2 spaces per teacher.
Elementary or junior high schools:	1 space per 4 seats or 8 feet of bench length in auditorium or assembly room, whichever is greater, plus 1 space per employee.
High schools:	1 space for each 6 students or 1 space per 4 seats or 8 feet of bench length in the main auditorium, whichever is greater, plus 1 space per employee.
College or commercial school for adults:	1 space per 3 seats in classrooms.

Other auditorium or meeting room: 1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 sq. ft. of floor space.

f. COMMERCIAL

Grocery stores of 1500 sq. ft. or less of gross floor area, and retail stores, except those selling bulky merchandise: 1 space per 300 sq. ft. of gross floor area.

Supermarkets, grocery stores: 1 space per 200 sq. ft. of gross floor area. (Ord. 90-017 § 1, 1990)

Service or repair shops, retail stores and outlets selling furniture, automobiles or other bulky merchandise where the operator can show the bulky merchandise occupies the major area of the building: 1 space per 600 sq. ft. of gross floor area.

Bank or office, except medical or dental: 1 space per 300 sq. ft. of gross floor area.

Medical and dental office or clinic: 1 space per 150 sq. ft. of gross floor area.

Eating or drinking establishments: 1 space per 100 [60] sq. ft. of gross floor area.

Mortuaries: 1 space per 4 seats or 8 ft. of bench length in chapels.

g. INDUSTRIAL

Manufacturing establishment: 1 space per employee on the [2] largest working shift[s].

Storage warehouse, wholesale establishment, rail or trucking freight terminal: 1 space per 2,000 sq. ft. of floor area.

SECTION 18.116.030(F)(d), Development and Maintenance Standards for Off-Street Parking Areas, is amended to read as follows:

d. Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all-weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:

1. A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or
2. The subject use is located outside of a Rural Service Center and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or
3. The subject use will be in a Rural Industrial area and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.

SECTION 18.116.040, Accessory Uses, is amended to read as follows:

18.116.040 Accessory Uses.

An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

- A. A side yard or rear yard may be reduced to five [three] feet for an accessory structure erected more than 65 feet from a front lot line, provided the structure is

detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 450 sq. ft.

B. Boats and trailers, travel trailers, pickup campers or coaches, motorized dwellings and similar recreational equipment may be stored on a lot but not used as an accessory use in any zone provided that:

- a. In a residential zone, parking or storage in a front yard or in a side yard adjoining a street other than an alley shall be permitted only on a driveway.

- b. Parking or storage shall be at least three feet from an interior side lot line.

C. A manufactured home may be stored on an individual lot subject to obtaining a zoning approval from the Planning Division and subject to the following:

- a. Storage period shall not exceed one year.
- b. No utilities other than electric may be connected.
- c. The mobile home shall not be inhabited.
- d. The subject lot is not located in a CH, Conventional Housing Combining, zone.

SECTION 18.116.060, Manufactured Home Installation Standards, is repealed.

SECTION 18.116.110, Lot Size Reduction, is repealed.

SECTION 18.116.120, Fences, is amended to read as follows:

18.116.120 Fences.

A. Fences which form a solid barrier or are sight obstructive shall not exceed 3.5 feet in height when located in a required front yard or in a clear vision area.

B. Fences in Wildlife Area Combining Zones shall be to design standards that provide for safe migration of protected animals.

C. All fences shall comply with the requirements of the State of Oregon Building Code.

[A. Except as otherwise provided, permitted or required, fences, hedges and walls shall not exceed the height limitations of the appropriate zone in this ordinance except as follows:

B. Security fencing consisting of chain link fencing or similar material shall be permitted at a height in excess of height limitation with the following exceptions:

a. Security fencing shall not exceed height limitations for fences when located in the required front yard.

b. Security fencing shall not be constructed of materials to form a solid barrier.

C. Fences enclosing game or play areas constructed of chain link fencing or the like may be permitted in excess of the height limitations conditional upon the following:

a. Fencing shall not exceed height limitations when located in the required front yard.

b. Fencing shall not be constructed of materials to form a solid barrier.

D. Fences constructed of chain link fencing or similar materials enclosing school grounds may be erected at a height in excess of height limitations.]

SECTION 18.116.180(B)(a) and (b), Building Setbacks for the Protection of Solar Access, is amended to read as follows:

B. Standards. Every new structure or addition to an existing structure shall meet the following standards for a solar setback from the north lot line, except as provided in (c) below:

a. South Wall Protection Standard. The south wall protection standard is based on an eight (8) foot solar fence on the subject property's north lot line which allows solar radiation on a neighboring building's south wall above two feet from the ground, assuming a twenty-foot setback from the common property line to the neighboring building. Solar setbacks for the south wall protection standards can be calculated with the diagram in Appendix A-1 or estimated with the table in Appendix A-2. Final determination of

solar setback distance is made by entering the following variables into the Deschutes County Shadow Length computer program:

1. Pole height;
2. The eight (8) foot fence height;
3. The scale of the plot plan submitted in feet per inch; and
4. Degrees of slope of the land from east to west and from north to south.

If a setback meeting this requirement is not [established in Appendix A, and all new structure or additions shall meet this standard if feasible. If it is not] feasible due to physical constraints of the lot, including, but not limited to, rock outcroppings, septic systems, existing legal restrictions or lot dimensions, as determined by the Planning Director or Hearings Body, then the structure or addition must be located as far to the south on the lot as feasible and must meet the standard set forth in paragraph (b) below. (Ord. 91-020 § 1, 1991)

b. South Roof Protection Standard. The south roof protection standard is based on a fourteen (14) foot solar fence on the subject property's north lot line which allows for solar radiation on a neighboring building above eight feet from ground level and assuming a twenty-foot setback from the common boundary line to the neighboring building. Solar setbacks for this standard can be calculated using the diagram in Appendix B-1 or estimated using the table in Appendix B-2. Final determination of the setback will be made using the Shadow Length computer program by specifying a fourteen (14) foot solar fence and additional site-specific information as listed in (a) above. [All new structures or additions to existing structure shall meet the standard for south roof protection set forth in Appendix B.]

SECTION 18.116.200, Time Share Unit, is moved from the Supplementary Provisions Chapter to the Conditional Use Chapter and renumbered Section 18.128.080.

CHAPTER 18.116, Supplementary Provisions, is amended by the addition of two new sections: Section 18.116.200, Recreational Vehicle on an Individual Lot and Section 18.116.210, Residential Homes and Residential Facilities.

18.116.200 Recreational Vehicle on an Individual Lot.

A. A recreational vehicle, as defined in this title, may be located on a subject lot and used as a temporary dwelling unit for a period for not more than thirty (30) days in any sixty (60) day period. Recreational vehicles which are to be connected to sewer, water or power shall obtain all necessary permits from the Deschutes County Building Safety Division and the Environmental Health Division.

B. A temporary use permit may be issued for location of a recreational vehicle on an individual lot for a period not to exceed 120 days in a single year.

18.116.210 Residential Homes and Residential Facilities.

A. Residential homes and residential facilities shall be permitted in the same manner that single-family dwellings are permitted under this title. For the purposes of this title, the term "dwelling" or "single-family dwellings" shall be synonymous with the terms "residential home" or "residential facility."

B. In any application for a residential home or residential facility, the applicant shall not be required to supply any information concerning the existence of or the nature or severity of any handicap (as that term is defined under the Fair Housing Act) of prospective residents.

SECTION 18.120.010, Nonconforming Uses, is amended to read as follows:

18.120.010 Nonconforming Uses.

Except as otherwise provided in this title, the lawful use of a building, structure or land existing on the effective date of this title or any amendment thereto may be continued

although such use does not conform with the standards for new development specified in this title. A nonconforming use or structure may be altered, restored or replaced subject to this section. 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 this title in effect at the time of the proposed resumption.

A. **Verification of Nonconforming Use or Structure.** Verification of the existence of a nonconforming use or structure shall be required prior to or concurrent with any application to alter or restore the use. The burden of proof shall be on the applicant to demonstrate its lawful existence. The applicant shall demonstrate all of the following:

a. The nonconforming use or structure was lawful on the effective date of the provisions of this title prohibiting the use.

b. The nonconforming use or structure was actually in existence on the effective date of the provisions of this title prohibiting the use, or had proceeded so far toward completion that a right to complete and maintain the use would be vested.

c. The nonconforming use or structure has not been interrupted for a period in excess of one year or was never abandoned.

B. **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 paragraph (D) below.

C. **Restoration or Replacement of a Nonconforming Use.** A verified nonconforming use may be restored or replaced if all of the following criteria are met:

a. The nonconforming use or structure had been damaged or destroyed by fire, natural disaster or other casualty.

b. The nonconforming use or structure is restored or replaced on the same location and is the same size or smaller than it was prior to the damage or destruction.

c. The restoration or replacement of the nonconforming use or structure is commenced within one year of the damage or destruction.

D. Alteration of a Nonconforming Use. Any alteration to a nonconforming use or structure permitted under this section shall also be subject to all applicable provisions of this title, including site plan review. Alteration does not include expansion of a use or structure or a change in use.

a. The alteration of a nonconforming use or structure shall be permitted when necessary to comply with any lawful requirement.

b. In all cases other than that described in (a) above, alteration of a nonconforming use or structure or any physical improvements may be permitted by the Hearings Officer when both of the following criteria are met:

1. The alteration is necessary to reasonably continue the nonconforming use.

2. The alteration will have no greater adverse impact on the neighborhood.

E. Procedure.

a. Except when decided in conjunction with a request to expand, alter, restore or replace a nonconforming use, any application for verification of a nonconforming use shall be decided by the Planning Director, subject to such procedure for appeal as set forth in Title 22, the Deschutes County Uniform Development Procedures Ordinance.

b. Applications to expand, alter, restore or replace a nonconforming use shall in all cases be subject to a public hearing consistent with the requirements of Title 22, the Deschutes County Uniform Development Procedures Ordinance.

[A. Subject to the provisions of this section, a nonconforming use or structure may be continued but may not be extended or altered, unless necessary to comply with a lawful requirement. The extension of a nonconforming use to a portion of a structure for which a building permit or zoning permit has been granted at the time of passage of

this ordinance shall not be deemed an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this ordinance.

B. If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this ordinance.

C. If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.

D. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 50 percent of its fair market value as indicated by the records of the County Assessor, the use shall not be re-established.

E. Nothing contained in this ordinance shall require any change in the plan, construction, alteration or designated use of a structure for which a building permit has been issued by the county prior to the adoption of the ordinance, provided the structure is completed and in use within two years from the time the permit is issued.

F. Nonconforming uses created by this ordinance shall register their status with the Planning Department within two years of the adoption of this ordinance.]

SECTION 18.120.050, Fill and Removal Exceptions, is amended to read as follows:

18.120.050 Fill and Removal
Exceptions.

[A. The following fill and removal activities are permitted outright if the material to be filled or removed will not exceed 50 cubic yards in volume:

a. Removal of vegetation for the purpose of:

1. Removal of diseased or insect-infested trees or shrubs or rotten or damaged trees that present safety hazards.

2. Normal maintenance and pruning of trees and shrubs.]

A. Fill and removal activities involving the removal of vegetation are permitted outright if the material to be filled or removed will not exceed 50 cubic yards in volume and such fill or removal activities are undertaken for the purpose of (1) removal of diseased or insect-infested trees or shrubs or of rotten or damaged trees that present safety hazards, or (2) normal maintenance and pruning of trees and shrubs.

B. The following fill and removal activities may be authorized by the Planning Director or Hearings Body upon a finding that no adverse impacts will occur to the water resources of Deschutes County:

a. Minor fill or removal required for vegetative enhancement, including excavation and preparation of the ground for planting additional vegetation.

b. Fill or removal for maintenance and repair of existing bridges, dams, irrigation facilities and similar public and semi-public facilities, provided such fill or removal does not alter the existing characteristics of the stream, river or wetland.

c. Fill or removal for maintenance and repair of nonconforming structures or boat docks.

d. Emergency actions taken to mitigate fill and removal violations when such emergency actions are intended to have a beneficial impact on fish and wildlife habitat and are determined to be the actions with the least overall impacts on the surrounding area, considering hydrologic factors; impact on water quality, on aquatic life and habitat and wildlife and habitat; the recreational, aesthetic and economic values of the affected water resources; and existing streambank stabilization problems.

e. Fish and wildlife habitat enhancement projects approved or sponsored by the Oregon Department of Fish and Wildlife.

SECTION 18.124.030, Approval Required, is amended to read as follows:

18.124.030 Approval Required.

A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to Deschutes County Code Title 22, the Uniform Development Procedures Ordinance. (Ord. 86-032 § 1, 1986)

B. The provisions of this section shall apply to the following:

a. A[a]ll conditional use permits where a site plan is a condition of approval;

b. M[m]ultiple-family dwellings with more than three units; [and community service uses in any zone and all developments in the following zones:]

c[a]. All commercial [zones] uses that require parking facilities;

d[b]. All industrial [zones] uses;

e. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and

f[c]. As specified for [all] Landscape Management Combining Zones (LM), Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).

[d. All planned developments, cluster developments and planned communities.]

C. Non-compliance with a final approved site plan shall be a zoning ordinance violation.

D. As a condition of approval of any action not included in subsection (B) of this section, the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits. (Ord. 91-020 § 1, 1991)

SECTION 18.124.060, Approval Criteria, is amended by the deletion of paragraph (B).

[B. The elements of the site plan should promote energy conservation and provide adequate protection from adverse climatic conditions, noise and air pollution.]

CHAPTER 18.128, Conditional Use, is amended by the addition of the following Sections 18.128.015, General Standards Governing Conditional Uses, and 18.128.090, Building Permit for an Approved Conditional Use:

**18.128.015 General Standards
Governing Conditional Uses.**

In addition to the standards of the zone in which the conditional use is located and any other applicable standards of this chapter, conditional uses shall comply with the following standards:

- A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:
 - a. Site, design and operating characteristics of the use;
 - b. Adequacy of transportation access to the site; and
 - c. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.
- B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in (A) above.
- C. These standards and any other standards of this chapter may be met by the imposition of conditions calculated to insure that the standard will be met.

**18.128.090 Building Permit for
an Approved Conditional
Use.**

Building permits for all or any portion of a conditional use shall be issued only on the basis of the plan as approved by the Planning Director or Hearings Body. Any substantial change in the approved plan shall be

submitted to the Planning Director or the Hearings Officer as a new application for a conditional use.

SECTION 18.128.020, Conditions, is amended to read as follows:

18.128.020 Conditions.

In addition to the standards and conditions set forth in a specific zone or in Chapter 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.

- A. Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.
- B. Require a special yard or other open space or a change in lot area or lot dimension.
- C. Require a limitation on the height, size or location of a structure.
- D. Specify the size, number, location and nature of vehicle access points.
- E. Increase the required street dedication, roadway width or require additional improvements within the street right-of-way.
- F. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.
- G. Limit or specify the number, size location, height and lighting of signs.
- H. Limit the location and intensity of outdoor lighting and require shielding.
- I. Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.
- J. Specify the size, height and location of any materials to be used for fencing.
- K. Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources. (Ord. 91-020 § 1, 1991; Ord. 83-037 § 24, 1983)

L. Require that a site plan be prepared in conformance with Chapter 18.124 of this title.

SECTION 18.128.040(G), Home Occupations, is amended to read as follows:

G. Home occupations. When permitted as a conditional use and conducted as an accessory use, a home occupation shall be subject to the following limitations:

a. The home occupation is to be secondary to the outright [main] uses permitted in the zone in which the property is located. [of the property as a residence and] It shall be conducted only by members of the family residing on the property. [the resident of such dwelling or immediate family members, within the same dwelling or in an accessory building on the same property.] The home occupation shall be conducted in such a way that it has no adverse impact on the residential character of its location.

b. Any structure on the property where the home occupation is conducted shall be of a type normally associated with the zone where it is located. No structural alterations affecting the residential appearance of a building shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alterations have been reviewed and approved by the Planning Division. [shall be allowed to accommodate the home occupation except when otherwise required by law and then only after the plans for such alterations have been reviewed and approved by the Planning Director or Hearings Body. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.] (Ord. 91-020 § 1, 1991)

c. The subject property shall have adequate access and parking for the home occupation. Traffic created by the business or customers of the business shall not be of a volume or frequency that will cause disturbance or inconvenience to nearby land uses.

d. All uses conducted on the subject property shall comply with all requirements of the Deschutes County Building and Safety Division and the Environmental Health Division and any other applicable state or federal laws.

e. The home occupation approval shall be reviewed every twelve months by the Planning Division to ensure compliance with the requirements of this section and the conditions required for approval of the use.

f[c]. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception or other factors.

d. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.

e. Retail sales shall be limited or accessory to a service.]

SECTION 18.128.040(M), Recreational Vehicle Park, is amended by the addition of the following:

o. Access to the recreational vehicle park shall be from an arterial or collector street.

SECTION 18.128.040(U)(b)(4), High-Temperature Geothermal Wells and Small-Scale Geothermal Energy Facilities, is amended as follows:

4. **Protection of Historic and Cultural Resources [Protection]**. Activities shall be designed and conducted to avoid disturbance of [to] historic and cultural resources. [The applicant shall cease construction or operations] I[i]f such resources are discovered [encountered], the applicant shall cease construction or operations and inform the county of the discovery within 48 hours [of such resources]. Thereafter, the applicant

shall submit a plan for preservation and[/or] interpretation of such resources **and implement the plan before resumption of [recommencing] construction or operations.**

SECTION 18.128.040(W), Fill and Removal, is amended to read as follows:

a. Except as otherwise provided in this title, 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 subject to the following standards:

1. An application shall be filed containing a plan with the following information:

i. A detailed explanation of the planned fill or removal including the amount of material to be filled or removed.

ii. An explanation of why the fill or removal is necessary.

iii. A site plan, drawn to scale and accompanied by such drawings, sketches, and descriptions as are necessary to describe and illustrate the proposed fill or removal. The site plan shall, at a minimum, include:

- * An inventory of existing vegetation.
- * The proposed modifications, if any, to the vegetation.
- * Existing and proposed site contours.
- * Location of property lines, easements and high water marks.
- * 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:

i. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.

ii. That the public facility and service uses and related facilities cannot, as a practical matter, be located outside of the wetland or bed and banks of the stream or river.

iii. 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.

iv. That erosion will be adequately controlled during and after construction.

v. 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.

vi. That only the minimum removal of vegetation or material and dredging or excavation necessary for construction and maintenance will be done.

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:

i. That all necessary state and federal permits will be obtained as a condition of approval of the conditional use permit.

ii. That only the minimum removal of vegetation or material and dredging or excavation necessary for construction and maintenance will be done.

iii. 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.

iv. That such construction and maintenance is designed to minimize the adverse impact on the site.

v. That erosion will be adequately controlled during and after construction.

vi. 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.

vii. That the specific location of a site for a public park, recreation area, natural and outdoor education area, historic and scientific area, wildlife refuges, public boat launching ramps, public docks and walkways will require the minimum amount of disturbance to the natural environment, considering alternative locations in the area and methods of construction.

4. Except for uses identified in paragraphs (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:

i. Shall be granted only after consideration of the following factors:

* The effects on public or private water supplies and water quality.

* 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.

* Recreational, aesthetic and economic values of the affected water resources.

* 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.

* The character of the area, considering existing streambank stabilization problems and fill or removal projects which have previously occurred.

ii. Shall not be granted unless all of the following conditions are met:

* That all necessary state and federal permits will be obtained as a condition of approval of the conditional use.

* 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)(i) above.

* That there will be no significant impacts on the surrounding area, considering the factors established in subsection (4)(i) above.

* That erosion will be adequately controlled during and after the project.

* That the essential character, quality, and density of existing vegetation will be maintained. Additional vegetation shall be required if necessary to protect aquatic life habitats, functions of the ecosystem, wildlife values, aesthetic resources and to prevent erosion. (Ord. 91-020 § 1, 1991)

* That the proposed fill or removal activity will be consistent with all relevant goals and policies of the Deschutes County Comprehensive Plan.

* That a conservation easement, as defined in Section 18.04.030, "Conservation Easement," 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. (Ord. 89-008 § 1, 1989)

[b. This section shall not apply to fill and removal activity in the bed or banks of the following stretches of the Deschutes River which are within Deschutes County.

1. The segment from the gauging station immediately below Wickiup Dam downstream approximately 28 miles to General Patch Bridge (at river mile 199);

2. The segment beginning at Harper Bridge (at river mile 192) downstream approximately 20 miles to river mile 172 above Bend, Oregon; and

3. The segment beginning at Twin Bridges (at river mile 154.5) downstream approximately 34.5 miles to Lake Billy Chinook, excluding the Cline Falls Dam and power house between river mile 145 and 144.] (Ord. 91-020 § 1, 1991; Ord. 87-032 § 1, 1987; Ord. 86-056 § 3 & 4, 1986)

4. Emergency actions taken to mitigate fill and removal violations when such emer-

agency actions are intended to have a beneficial impact on fish and wildlife habitat and are determined to be the actions with the least overall adverse impacts on the surrounding area considering the factors in subsection (4)(i) above.

5. Fish and wildlife habitat enhancement projects approved or sponsored by the Oregon Department of Fish and Wildlife.

SECTION 18.128.040, Specific Use Standards, is amended by the addition of the following subsections:

Z. Mini-storage facility.

a. Each individual space for rent or sale shall be less than 500 square feet.

b. Mini-storage shall be limited to dead storage. Outside storage shall be limited to boats, recreational vehicles and similar vehicles placed within designated spaces on an all-weather surfaced area which is surrounded by a sight-obscuring fence at least six feet in height.

c. Yards shall be permanently landscaped.

d. Yard dimensions adjacent to residential zones shall be the same as required yards within the residential zone.

e. One parking space for each twenty five storage spaces shall be located at the project office for use by customers.

f. All structures shall be fenced and visually screened.

g. Traffic lanes shall be twelve feet wide with an additional ten-foot parking lane, except where the traffic lane does not serve the storage units. All areas provided for vehicle access, parking and movement shall be improved to minimum public road standards.

h. A residence for a caretaker or 24-hour on-site manager is permitted.

i. There shall be only one access from each adjacent street.

j. Outside lighting, including shading to prevent glare on adjacent properties, may be required for safety and security purposes.

AA. Bed and breakfast inn.

a. Bed and breakfast inns shall be restricted to owner-occupied single-family residences.

b. Bed and breakfast inns located in farm or forest zones shall utilize existing dwellings or dwellings conforming to the requirements of those zones relating to single-family dwellings.

c. No more than three sleeping rooms shall be available for the accommodation of inn visitors.

d. No more than eight guests shall be accommodated at any one time.

e. Occupancies shall be limited to not more than thirty consecutive days.

f. Breakfast shall be the only meal provided to inn guests.

g. The exterior of the building shall maintain a residential appearance.

h. The bed and breakfast inn shall be operated in a way that will prevent unreasonable disturbance to area residents.

i. One off-street parking space shall be provided for each guest room in addition to parking required for the residence.

j. Approval shall be conditional upon compliance with all applicable state building code requirements and state sanitation requirements.

BB. Campgrounds. A conditional use permit for a campground may be issued only when the following criteria are met:

a. Campgrounds shall provide patrons with opportunities for outdoor recreation that are compatible with the natural setting of the area. Outdoor recreation activities include fishing, swimming, boating, hiking, bicycling, horseback riding and other similar activities. Outdoor recreation does not include commercial uses such as miniature golf courses, go-cart tracks or rental of equipment or animals.

b. Street access shall be provided as follows:

1. The campground shall obtain direct access from a street or road designated as an

iv. **Setback requirements in (ii) and (iii) above may be waived upon a finding by the Planning Director or Hearings Body that the developed portion of the campground will be sufficiently screened and buffered from neighboring properties or the protected landscape area.**

11. **Tent campers and recreational vehicles shall not remain in the campground for more than 30 days in any 60-day period.**

12. **The campground shall be licensed as a tourist facility by the State Department of Health as specified in ORS Chapter 446, unless operated by a public entity, timber company or private utility.**

13. **One dwelling may be allowed for a resident caretaker or proprietor.**

CHAPTER 18.132, Variances, is amended by the addition of the following section:

18.132.025 Minor Variances.

A variance seeking to depart from on-site requirements of this title, such as setbacks and area requirements, by no greater than 10 percent of the required distance or area may be granted by the Planning Director or Hearings Body in conformance with this section.

A. In the case of a setback or size variance, the applicant shall show that the approval will result in:

- a. More efficient use of the site;
- b. Preservation of natural features where appropriate;
- c. Adequate provision of light and privacy to adjoining properties; and
- d. Preservation of topographic, vegetative and drainage features which would be adversely affected by application of the standards otherwise required by this title.

B. A lot line adjustment varying no more than 10 percent from standard dimensions as specified in this title may be approved without a variance for lots that are already nonconforming.

CHAPTER 18.140, Administrative Provisions, is amended by the deletion of Section 18.140.090, Lot Size Requirements.

[18.140.090 Lot Size Requirements.

Except as otherwise provided in this ordinance, the minimum lot sizes required by this ordinance shall be met for each use established on an area of land.] (Ord. 84-023 § 5, 1984)