



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

DATED this 13<sup>th</sup> day of October, 2004.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

*- absent*

\_\_\_\_\_  
MICHAEL M. DALY, Chair

*[Signature]*

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TOM DEWOLF, Commissioner

*[Signature]*

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DENNIS R. LUKE, Commissioner

Date of 1<sup>st</sup> Reading: 13<sup>th</sup> day of October, 2004.

Date of 2<sup>nd</sup> Reading: 13<sup>th</sup> day of October, 2004.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Michael M. Daly	_____	_____	_____	_____✓
Tom DeWolf	_____✓	_____	_____	_____
Dennis R. Luke	_____✓	_____	_____	_____

Effective date: 13<sup>th</sup> day of October, 2004.

ATTEST:

*[Signature]*  
\_\_\_\_\_  
Recording Secretary

EXHIBIT "A"

**18.16.050. Standards for dwellings in the EFU zones.**

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.396 or 30.397.

A. Farm-related dwellings on nonhigh value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.030(A), may be approved if it satisfies any of the alternative tests set forth below:

1. Acreage test.
  - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:
    - i. The parcel on which the dwelling will be located is at least:
      - (a) One hundred sixty acres and not in the Horse Ridge East subzone; or
      - (b) Three hundred twenty acres in the Horse Ridge East subzone;
    - ii. The subject tract is currently employed for farm use, as defined in DCC 18.04.040, and which is evidenced by a farm management plan;
    - iii. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;
    - iv. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K);and
    - v. The dwelling will be located on the least productive part of the parcel.
2. Median acreage/gross sales test.
  - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:
    - i. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;
    - ii. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a)(i);
    - iii. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(ii). If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to establishment of the farm use capable of meeting the median income test.
    - iv. The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
    - v. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K); and
    - vi. The dwelling will be located on the least productive part of the parcel; and



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3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income DCC 18.16.050(B)(1); and
  4. The dwelling will be located on the least productive part of the parcel.
  5. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements;
  6. Only gross income from land owned, not leased or rented, shall be counted; and gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
  7. Prior to a dwelling being approved under this section that requires one or more contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
    - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings; and
    - b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- C. Accessory dwelling. A dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:
1. The accessory dwelling meets the following criteria:
    - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
    - b. The accessory farm dwelling will be located:
      - i. On the same lot or parcel as the ~~primary~~ primary farm dwelling; or
      - ii. On the same tract as the ~~primary~~ primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
      - iii. On a lot or parcel on which the ~~primary~~ primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured home and a deed restriction substantially in compliance with the form set forth in Exhibit A to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. ~~An accessory farm dwelling approved pursuant to DCC 18.16.050 may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator.~~ The manufactured home may remain if it is reapproved under DCC 18.16.050;
      - iv. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under DCC 18.16.065 and the lot or parcel complies with the gross farm income requirements in DCC 18.16.050(A)(3) or (B)(1), whichever is applicable; and
    - c. There is no other dwelling on land zoned EFU owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

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2. The primary ~~neipal~~ farm dwelling to which the proposed dwelling would be accessory meets one of the following:
  - a. On land not identified as high-value farmland, the primary ~~neipal~~ farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced \$32,500 in gross annual sales in the last two years or three of the last five years. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
  - b. On land identified as high-value farmland, the primary ~~neipal~~ farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 (~~1994 dollars~~) in gross annual income from the sale of farm products in the last two years or three of the last five years. Gross income shall be calculated by deducting the cost of purchased livestock from the total gross income attributed to the tract; and
3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).
4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to DCC 18.16.050(G).

D. Relative farm help dwelling.

1. A dwelling listed in DCC 18.16.030(B) is allowed when:
  - a. The subject tract is at least 40 acres in size, unless it is demonstrated to the Planning Director or Hearings Body that a smaller unit of land is a commercial agricultural enterprise.
  - b. The subject tract is used for farm use;
  - c. The dwelling is a manufactured home and is sited in accordance with DCC 18.116.070, or is a pre-existing site-built home that: (1) was established at least 30 years prior to the date the conditional use permit was submitted and (2) is located on a parcel of at least 40 acres in size and that meets the minimum irrigated acres standard for the subzone within which it is located;
  - d. The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a relative of the farm operator or farm operator's spouse, including a grandparent, ~~step-grandparent,~~ grandchild, parent, ~~step-parent,~~ child, brother, or sister, ~~sibling, step-sibling, niece, nephew, or first cousin of either, of the farm operator or the farm operator's spouse, whose~~ if the farm operator does, or will, require the assistance of the relative in the management of the ~~commercial~~ farm use is or will be required by the farm operator.
  - e. The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.
  - f. Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator continues to play in the management and farm use of the farm.
2. A manufactured home permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured home shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
3. A pre-existing dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.

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4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.
  5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- E. Lot of record dwelling on nonhigh value farmland.
1. A lot of record dwelling will be approved on nonhigh value farmland when all of the following requirements are met:
    - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
      - i. Prior to January 1, 1985; or
      - ii. By devise or by intestate succession from a person who acquired and owned continuously the lot or parcel prior to January 1, 1985.
    - b. The tract on which the dwelling will be sited does not include a dwelling.
    - c. For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
    - d. If the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
    - e. The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
    - f. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of the tract;
  2. For purposes of DCC 18.16.050(E), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
  3. For purposes of DCC 18.16.050(E), the date of creation and existence means that, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- F. Lot of record dwelling on high-value farmland.
1. A lot of record dwelling will be approved on nonhigh value farmland when all of the following requirements are met:
    - a. The requirements set forth in DCC 18.16.050(E)(1)(a) through (f), as determined by the County; and
    - b. The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by a the County ~~hearings officer of the State Department of Agriculture~~.
  2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall ~~give its conditional approval under DCC 18.16.050(F)(1)(a) before forwarding an application made under DCC 18.16.050(F) to notify the State Department of Agriculture at least 20 calendar days prior to the public for hearing under DCC 18.16.050(F)(1)(b).~~
  3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.

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4. For purposes of DCC 18.16.050(F), the date of creation and existence means that, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

G. Nonfarm dwelling.

1. One single-family dwelling, including a manufactured home in accordance with DCC 18.116.070, not provided in conjunction with farm use may be permitted on an existing lot or parcel subject to the following criteria:
  - a. The Planning Director or Hearings Body shall make findings that:
    - i. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.
    - ii. The proposed nonfarm dwelling ~~will~~ does not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
    - iii. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
    - iv. The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot, ~~or sales yard, slaughterhouse or poultry, hog or mink farm,~~ unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm-dwelling or the agriculture of the area. Road access, fire and police services and utility systems (i.e., electrical and telephone) are adequate for the use.
2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:
  - a. A lot or parcel or a portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.
  - b. A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment,

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the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.

- c. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.
3. Loss of tax deferral. Except as provided in DCC 18.16.050(I)(2), pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the parcel upon which the dwelling is proposed has been disqualified under ORS 308A.113 or ORS 308A.116 for special assessment at value for farm use under ORS 308A.062 or other special assessment under ORS 308A.068, 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.

H. Temporary hardship dwelling.

1. A dwelling listed in DCC 18.16.030(F) is allowed under the following conditions:
  - a. The dwelling is a manufactured home or recreational vehicle, and is used in conjunction with an existing dwelling on the lot or parcel;
  - b. The manufactured home or recreational vehicle would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident. The manufactured dwelling shall be removed or demolished within three months of the date the hardship no longer exists. The recreational vehicle shall not be occupied once the term of the medical hardship is completed, except as allowed under DCC 18.116.095. A temporary residence approved under this section is not eligible for replacement under DCC 18.16.030(F);
  - c. The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and
  - d. The temporary manufactured home uses the same subsurface sewage disposal system used by the existing dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling.
  - e. If a recreational vehicle is used as a medical hardship dwelling, it shall be required to have a bathroom, and shall meet the minimum setbacks established under DCC 18.16.070.
2. Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090(B) and (C) and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.
3. As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons. As used in DCC 18.16.050(H), the term "relative" means grandparent, grandchild, parent, child, brother or sister of the existing resident.

I. Wildlife conservation plan dwelling.

1. A dwelling listed in DCC 18.16.030(G) is allowed when the Planning Director or the Hearings Body finds that the proposed dwelling:

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- a. Is situated on a lot or parcel existing on November 4, 1993, that qualifies for a farm dwelling, as listed in DCC 18.16.030(A), or a nonfarm dwelling, as listed in DCC 18.16.030(C);
  - b. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
  - c. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;
  - d. Will not be established on a lot or parcel that is predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the United States Natural Resources Conservation Service or any combination of such soils; and
  - e. Is the only dwelling situated on the affected lot or parcel.
2. For a wildlife conservation plan dwelling approval based upon nonfarm dwelling criteria, DCC 18.16.050(I) shall also apply. Unless prior to approval of a conditional use permit for a wildlife conservation plan dwelling the applicant submits to the assessor certification demonstrating approval by Oregon Department of Fish and Wildlife of a wildlife conservation and management plan and its implementation, the conditional use permit shall contain a condition requiring that the applicant, prior to issuance of a building permit for such dwelling, either 1) submit certification to the assessor from ODFW demonstrating approval and implementation of a wildlife conservation and management plan qualifying under ORS 215.808 or 2) pay the tax penalties required by DCC 18.16.050(G)(3).

(Ord. 2004-0020 § 1, 2004; Ord. 2004-013 § 2, 2004; Ord. 2004-001 § 2, 2004; Ord. 98-033 § 1, 1998; Ord. 98-030 § 1, 1998; Ord. 95-007 § 15, 1995; Ord. 94-026 § 1, 1994; Ord. 92-065 § 3, 1992; Ord. 91-038 §§ 2 and 3, 1991; Ord. 91-020 § 1, 1991)

EXHIBIT "B"

**18.128.360. Guest ranch.**

A guest ranch established under DCC 18.128.360 shall meet the following conditions:

- A. Except as provided in DCC 18.128.360(C), the lodge, bunkhouses or cottages cumulatively shall:
  - 1. Include not less than four nor more than 10 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities, and;
  - 2. Not exceed a total of 12,000 square feet in floor area.
- B. The guest ranch shall be located on a lawfully created parcel that is:
  - 1. At least 160 acres in size;
  - 2. The majority of the lot or parcel is not within 10 air miles of an urban growth boundary containing a population greater than 50,000;
  - 3. The parcel containing the dwelling of the person conducting the livestock operation; and
  - 4. Not classified as high value farmland as defined in DCC 18.04.030.
- C. For each doubling of every additional 160 acres to the initial 160 acres required under DCC 18.128.360(B), up to five additional overnight guest rooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guest rooms and 21,000 square feet of floor area.
- D. A guest ranch may provide recreational activities in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding or swimming. Intensively developed recreational facilities such as a golf course or campground as defined in DCC Title 18, shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course or with an existing campground.
- E. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of meals provided to the guests shall be included as part of the fee to visit ~~to~~ or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.
- F. The exterior of the buildings shall maintain a residential appearance.
- G. To promote privacy and preserve the integrity of the natural setting, guest ranches shall retain existing vegetation around the guest lodging structure.
- H. All lighting shall be shielded and directed downward in accordance with DCC 15.10, Outdoor Lighting Control.
- I. Signage shall be restricted to one sign no greater than 20 square feet, nonilluminated and posted at the entrance to the property.
- J. Occupancies shall be limited to not more than 30 days.
- K. The guest ranch shall be operated in a way that will protect neighbors from unreasonable disturbance from noise, dust, traffic or trespass.
- L. One off-street parking space shall be provided for each guestroom in addition to parking to serve the residents.
- M. Any conversion or alterations to properties designated as historic landmarks shall be approved by the Deschutes County Historical Landmarks Commission.

(Ord. 2004-020 § 2, 2004; Ord. 2004-001 § 3, 2004; Ord. 2001-043 § 1, 2001; Ord. 98-056 § 2, 1998)

**Note:** DCC 18.128.360 is repealed December 31, 2005.