



For Recording Stamp Only

Deschutes County Board of Commissioners
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(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

MINUTES OF WORK SESSION

DESCHUTES COUNTY BOARD OF COMMISSIONERS

MONDAY, NOVEMBER 30, 2015

Present were Commissioners Anthony DeBone, Tammy Baney and Alan Unger. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; David Doyle, County Counsel; Judith Ure, Administration; Whitney Malkin, Communications; Dan Depotopulos and Tracy Scott, Fair & Expo; Dave Inbody, Health Services; Chris Doty, Road Department; Nick Lelack, Peter Gutowsky, Cynthia Smidt and Matt Martin, Community Development; Nancy Blankenship, Clerk; Susan Ross, Property & Facilities; and two other citizens, including media representative Ted Shorack of The Bulletin.

Chair DeBone opened the meeting at 1:30 p.m.

1. Review of Quarterly Performance Measurement Report.

Tom Anderson said this is presented once a quarter to help the Board focus on what is going on with certain departments. These are some of the highlights of the first quarter.

Dave Inbody gave an overview of the new system, which was based on seven challenges pointed out in an internal audit. The old system was customized and any changes had to be done internally; appropriate controls were not in place. They wanted to improve compliance and be able to exchange records with other entities. *(He referred to a handout to explain the details.)*

This also allowed proper workflows to be developed. Everyone received general training and then customized training specific to their jobs. Over time, the various aspects were refined as needed. It is user-friendly and the employees received proper support. It went through two test phases, so when it was rolled out, there were few questions and problems.

Commissioner Baney asked if it is compatible with other agencies' systems. Mr. Inbody replied that other community partners are on the same system, including Mosaic Medical and the La Pine Community Clinic, and the school-based clinics. It makes a big difference in communications.

District Attorney's Office, Ashley Beatty, explained that after sentencing, a final judgment letter is sent to Victims' Assistance, with a non-related advocate contacting the victim regarding the provisions of the case. A survey is conducted at this point. About 80% agreed that the program helped them with their situation. E-court had problems with significant delays, causing frustration. Some did not like being passed from advocate to advocate each time they call. A higher risk case would have an assigned advocate. They also have a new answering system that helps people reach their assigned advocate.

Dan Depotopulos and Tracy Scott came before the Board. The numbers for the Fair were down a little due to some very hot weather, but the overall impact was about \$18 million. There is a new carnival coming in for next year, and they will provide nine more rides than before. He is also working on the Centennial Celebration and they will allow for discounted rides. This should increase attendance. A thirty-minute video will be shown internationally that focuses on all the activities of the area, on December 13. It has a two-year shelf life. *(At this time, the video was shown in part.)*

Nancy Blankenship gave an overview of the customer satisfaction survey results for the year. The results were very positive, with 100% good to excellent, and nearly the same result for elections. Comments were also positive.

Susan Ross spoke about some building projects now underway or completed. The Redmond Services Building (Unger Building) and the South County Services Building projects were finalized in October.

They went a little over budget on the Unger Building because there was such a need to move departments around while it was underway. The South County project came in under budget.

The Wall Street Building project meant moving about fifty people out. Some went into the CDD building and other space had to be rented locally to continue services. The project will be done in two phases. Mr. Anderson said that there was a positive article in the newspaper regarding maintenance done during the recent heavy snowfall.

They are trying to be as energy and water efficient as possible when these projects are taken on.

Chris Doty went over the pavement condition index that measures system health, which is considered good or better. They can spend a lot of money on a little bit of road or a little bit on a lot more roads. Chip seal is on a seven-year lifespan, about 14% of the system per year, and they are on target. They have some overlay scheduled for spring. Overall, the average is 80 and should go to 81 this year. The target is 80 and to sustain this, as it is the point where treatment is the most cost-effective. This is a big problem for the City of Bend right now.

Judith Ure said that a friend of hers is grateful that Rickard Road towards the east is being chip-sealed, and cannot say enough good things about the Road Department.

Mr. Doty said that Skyliners Road needs a little more work, weather permitting, with additional asphalt and striping. It has 12-foot bike lanes. There is now a new community sign in place as well. Erik Kropp said a biking event wants to use it in June, but he advised them that it might not be ready by then.

Peter Gutowsky spoke about the Sage Grouse and the BLM taking additional testimony into January regarding mining impacts. He said it does not affect Deschutes County. The Sage-Com effort and coalition with ranchers and private/public entities went a long way towards resolution. LCDC is going to recognize the seven affected counties, but the existing conditions for Deschutes County are very low.

Once the amendments are adopted, he feels the coordination with Deschutes County will come to a close.

Commissioner Unger said that Judge Steven Grasty of Harney County has been very involved in this. Commissioner Unger would like to know what the next steps might be here. Mr. Gutowsky said that LCDC and DLCD have a monitoring role in the future, and it may be revisited in five to seven years.

2. Overview of Ordinances Adopting Sage Grouse Inventories and Regulations.

Mr. Gutowsky referred to his staff report and its attachments. Every affected owner received letters summarizing the amendments and when hearings would be held. The County is obligated to adopt certain rules, as are six other counties. Incorporating this into the GIS allows for better customer service. The last community meeting resulted in no opposition, so he does not expect any testimony at the Board's public hearing on Wednesday.

They are replacing the old Sage Grouse inventories from the early 1990's with a brand new zone per the State. This is also going to be adopted into the Goal 5 inventory. On page 6 of the staff PowerPoint, it shows that if there is large-scale development, you are subject to certain rules.

If it is a regulated use in EFU, requiring conditional use approval, it triggers the threshold. If it is not a farm use, is over 50 feet in height, over five acres, generates a certain number of vehicle trips or a certain level of noise or other factors, it would be regulated under large-scale development. Avoidance is emphasized; otherwise minimizing the impact or mitigation is necessary. This applies to the core area (per the map). You can disturb only 1% of that area in a year, with a 3% total maximum.

If there is a low-impact farm use desired, another test is whether it is located near a lek (four miles in a core area, one and one-half in low-density areas). It is not meant to be overly stringent and may depend on the time of the year. The likelihood of mitigation is small. This should be caught early in the application process. The Oregon Department of Fish & Wildlife would be involved and help with site selection. There needs to be a finding that it is a farm use. In any case, the rules are already in place, so he encourages adoption of the amendments by emergency so they can be consistent.

The Planning Commission recommended adding that renewable energy entities have to post a bond. Mr. Gutowsky said that there is already a specific criterion in Administrative Rule, and the two solar farms off Neff Road required a bond for the lifespan of the project, for site restoration. The County has the authority to impose the bond in this case. This issue was not brought up during public testimony.

3. Discussion of 4 Peaks Outdoor Mass Gathering Application.

Cynthia Smidt said that there have been some changes in this year's application, which is why it is not just a renewal. They try to follow their permit well, but are saying that there could be up to 1,500 attendees in anticipation of potential changes in the outdoor mass gathering ordinance. They also want to open sooner to ease traffic issues, and have a little music on Thursday. They are opening some walk-in camping areas as well. They also would like to have overflow parking on an adjacent property, but are awaiting written permission. There are two versions of the application, one with this additional parking allowed and one without.

There were no problems last year. There are provisions in the application that set specific guidelines and they have followed them in the past. State law indicates that as long as they can meet the criterion, it is to be allowed.

Mr. Gutowsky said this is the benefit of having renewals annually, to be aware of changes. This is not under land use provisions. There has to be a valid reason to request that they do more than the minimum County requirements. The Sheriff's Office signed off immediately on the application with the addition of some other security factors.

Commissioner Baney stated she is seeing a little scope-creep, with expanded uses. Ms. Smidt said that Thursday camping hours were set a couple of hours earlier to allow for better traffic flow. The neighbors have been supportive, but she does not want to see anyone take advantage.

4. Overview of Proposed Marijuana Business Regulations.

Matt Martin said there have been public hearings before the Planning Commission, and a lot of public interest throughout. He provided an overview of the Planning Commission's recommendations.

He referred to the staff cover memo, and a matrix covering recommended uses and specific use standards for each business type.

The biggest change was in relation to production. It would be in EFU zones, twenty acres or greater. This eliminates anything under twenty acres or in different zones. Mr. Lelack said that these rules have to be reasonable, and no one knows exactly what this means. Some attorneys say it is a farm use like a tomato and that is it. Others entities feel it is not a normal farm crop and that it should be on much longer parcels. Commissioner Unger asked how many properties there are that are twenty acres or greater, or are EFU under twenty acres. Mr. Gutowsky stated they would have a map available showing them.

Commissioner Baney asked about the medical marijuana regulation changes for 2016. Mr. Martin said they address mostly revenue. Commissioner Baney stated that it seems to be difficult from an enforcement standpoint; how can they differentiate. Mr. Martin said the OLCC will be licensing and how to differentiate is going to be challenging. They have to identify the exiting medical marijuana grow operations from any new ones. Commissioner Baney stated that some feel the greenhouses will go away if there is an opt out, but this might not be the case. The operations under OHA licensing cannot be touched and could even be expanded. David Doyle said that they may be able to institute enforcement regarding lighting or noise, but it would not cover siting of existing operations.

Mr. Lelack said that the Planning Commission wants the existing facilities to comply with lighting, noise, odor and other issues, but if they are already approved by the OHA, it is difficult. This would require active code enforcement action and it could involve a very large number of properties. The OHA has not shared the locations. Some counties are concerned that such enforcement of existing facilities may not even be legal. Mr. Anderson said it might take a legislative fix for this to be possible.

Commissioner Baney asked about the right to farm provisions. Mr. Lelack said they talked about this relating to odor and noise. This use is protected in the EFU zone. Clackamas and Jackson counties are trying to change this. It could be imposed and then they will see if there is litigation. Mr. Doyle said if it is a special farm use, they may be able to impose something different. Also, it is not legal at a federal level, and some feel that it cannot be protected as a farm use for that reason.

Commissioner Baney wants to see protection of the right of people to farm on their own land, but maybe it is not the same if they want to farm on land owned by others.

Commissioner Unger asked about the LUCS process being used. Mr. Martin stated that there will be some level of site plan review or administrative review required of most.

Commissioner Baney asked about rural residential and whether EFU fits into this. Some say they have purchased EFU for a rural residential lifestyle, which is not the same. Mr. Lelack said that this is one reason why the Planning Commission set standards at 20 acres or more. Mr. Martin said that some people feel they are in a rural residential neighborhood but are actually in EFU, but may not really be farming. Commissioner Unger wants owners to be compatible with other uses regardless.

Mr. Lelack says that a LUCS cannot be treated as a land use decision. It is just for stating that a specific application is consistent with a limited amount of time to make a decision.

Mr. Lelack said that the Planning Commission did not agree on much, but came up with a set of recommendations for the Board that most could support.

Processing is proposed to not be allowed on anything less than twenty acres. DLCD has said that processing and packaging is part of the farm use. It is the extract processing that means additional chemicals and combustibility. They broke out this part from the rest to be approved separately. This lines up with the proposal for type 1 and type 2 processing. An administrative determination is required.

Commissioner Baney asked about the impacts of this. Mr. Martin said they would address access, noise and other factors. A shared easement across property requires agreement of all parties as well. Mr. Doyle said this could become a civil situation.

Retailing is a conditional use requiring a permit. Wholesaling would be limited to office use only, and not the storage of products. Commissioner Unger asked about security issues. Mr. Martin said it is being classified as wholesaling but with no on-site storage.

Commissioner Unger would like to see how the 1,000-foot buffers to schools looks on maps. Commissioner Baney asked about MUA properties that might meet setback requirements but are only 10 acres. Commissioner Unger said that MUA could be larger than 20 acres, and asked whether there is an exception process. Maybe they can look at this on a long-term basis.

Mr. Lelack said they did the mapping of MUA-10 and there were not many properties that fit the criterion. Mr. Martin said they heard over and over about sight, sound and odor issues, which seem to apply mostly to greenhouse operations.

Mr. Lelack stated that by not allowing some of the existing medical marijuana operations to expand their use, there would not be an opportunity to regulate them. They will just continue on with what they are doing.

Mr. Martin reviewed standards regarding setbacks and more. These are to mitigate for compatibility. The Planning Commission strongly recommended that there not be an opt out, but to make the uses more restrictive.

Commissioner Baney feels there will be a lot of pressure to just opt out, based on federal law, safety, kids, odors, light and more. Mr. Martin said it is sight, sound and smell that are the biggest concerns.

Chair DeBone hopes to have some talking points. At the hearing, he would like to limit testimony to three minutes and remind people to stay on track regularly. Commissioner Unger suggested they address opt out at the beginning so people understand what it means.

Mr. Lelack said that the last day to opt out is December 21. They can develop draft ordinances in advance. Commissioner Baney does not want to make it seem as if they have already made up their minds. There is a misunderstanding of what opt out means, and knows that some of the issues now occurring are not just going to go away if they choose to opt out.

Mr. Martin spoke about home occupations being prohibited for marijuana processing, and the retail medical marijuana language that was in place since it would be replaced. Direct access to a public road would be required or through easements by agreement of all parties.

Regarding odor control, there would need to be filtration equipment for greenhouses and buildings that have to be able to support this type of equipment. Commissioner Unger asked why they should call out the type of equipment rather than having the parties figure it out. Mr. Martin said they are monitoring Clackamas County in this regard. They reduced the cubic feet per minute to language stating it needs to be sized appropriately, with windows and doors closed except for ingress and egress. They also need to maintain negative pressure within the building, through properly sized equipment.

Chair DeBone asked if operations are seasonal. Mr. Lelack said that it can be year-round if indoors.

Mr. Martin said lighting control is a big issue. Screening or shielded lighting is necessary and would mirror the dark skies ordinance. There were questions as to whether this is enough to handle the light issues. This is a Board decision. There was no real consensus of the Planning Commission. Some feel there is technology so that the entire structure could be shielded after the allowed hours.

Deliberations are set for December 21. If no opt out, all the changes would come to the Board on December 30 for approval.

Commissioner Baney asked who determines what ‘maximum extent possible’ means regarding light. Mr. Martin said this is supposed to be reasonable. Mr. Lelack would like to take this language out as it is too ambiguous. Commissioner Baney does not feel it could be a total blackout in any case. Mr. Lelack said they can require from sunset to sunrise rather than set hours. Mr. Martin said they could add this to their outdoor lighting ordinances and include greenhouses regardless of the use.

Regarding security cameras, there may be a requirement to record activity on another property if an easement is shared. Secure disposal language comes from the OLCC. Noise control relates mostly to fans, and a recommendation is to move it to the noise ordinance. Excessive noise of any kind between 10 PM and 7 AM is already addressed in Code.

Regarding screening, the Planning Commission said not to apply this to new operations, and that setbacks are adequate. The question is whether this can be applied to existing grows. It is unlikely the OHA or OLCC will apply anything at this point.

Commissioner Baney would like to add a caveat that if a property has little natural screening, that it be required. Mr. Martin stated that this is required only in the landscape management combining zone, and it is discretionary. However, they could use the same language with this.

In regard to water use, they want to make sure the water source is legal to be used. Some could be from an exempt well, or from irrigation rights. They have deferred to the Watermaster as to its use.

There was discussion regarding the use of power. Mr. Martin said that the indoor building grow operations are the big users. Greenhouses rely on natural light for the most part. Pacific Power did respond to their inquiry; Central Electric Cooperative did not indicate there would be a problem. There do not seem to be any outstanding concerns from the providers.

Minimum separation distances include schools and licensed day care and preschool facilities. The Planning Commissioner recommended this be expanded to include parks and youth activity centers. Some of these might be hard to identify, and some of these uses might be transient.

Regarding fire protection, processing of extracts would be allowed only within a fire district or for those who have contracted services for fire protection services.

In regard to non-conforming uses, this would be only for existing medical grow operations. It would have to be complaint driven with a period of time for compliance.

For retail uses, business hours are 10 AM to 7 PM, the same as medical marijuana operations. Window service, walk-up or drive-up, would not be allowed. OLCC rules do not allow for this currently. It also needs to be in an area that not visible to the public.

Co-location would be prohibited for retail operations and a marijuana social club. There is one in the state now, as a private club.

New concepts not included are limiting the number of licenses from OLCC to one indoor and one outdoor per twenty acres. They are limited now by canopy area or facilities using artificial light. The State defines licensed premises as the entire tax lot outdoors; a portion of buildings if indoors.

Per the OLCC, if the operations are physically separated, they could have many operations with different licenses. This could be similar to a cooperative. The limitation would be the location of the structures on the property and the overall size of the property. Someone could have indoor and outdoor licenses.

Commissioner Unger asked if they are negatively affecting small growers versus large growers. Mr. Martin said the cost of infrastructure and lighting control may limit the smaller growers. The biggest is the cost of property. If it is twenty acres, there are only so many producers who can afford it.

Commissioner Unger asked if someone could contract out to someone to grow on their property. Mr. Martin said that there are no restrictions as long as the tenant can get the proper approvals. The biggest issues seem to be large operations and those with big greenhouses. Others might not even be visible.

Mr. Anderson said that security seems to be a big issue. Commissioner Baney said this is where screening might come into play, if there are razor wire fences and guard dogs.

Relating to inspections, it was recommended that these be done annually or biannually. Mr. Lelack said this is a challenge and they do not do this now. This would require significant resources. They cannot trespass, either, so would require permission to access. Mr. Anderson said they could put in wording that an inspection may be required. They would need to hire someone and charge a fee. Mr. Martin said the OHA and OLCC will be requiring fees for their programs. The County does not do this for any other uses except for medical hardship cases, but they do not inspect, and that is a temporary use in any case.

Finally, the Planning Commissioner suggested a task force be convened to evaluate and review the regulations, and report on what is working and what is not.

There can be a series of ordinances and a variety of conditions that can be subject to opt out. Commissioner Baney asked about someone who is growing marijuana for medical reasons, and wants to do more. Mr. Martin said the direct point of sale is to the general public. Farm stand sales are prohibited at this time.

Commissioner Baney would prefer to be more restrictive at first. She asked about restricting retail. Mr. Martin said there are few outside areas where this might be possible; most would take place within the cities. Commissioner Baney stated that she is thinking of agri-tourism efforts such as tours and product tasting. Mr. Martin said they could codify locally the idea of no farm stands for this. He added that some in the industry have aspirations of doing this in the future. He also anticipates changes through the legislature over time.

However, it is easier to say ‘no’ now, based on existing State law. You can always lessen restrictions later, but it would be hard to be more restrictive in the future if not put into place now. The OLCC has temporary rules adopted and they can be found on the County website.

5. Other Items.

Regarding the Thornburgh final master plan approval decision, the Hearings Officer’s documents are now available for Wednesday’s business meeting. There will be two draft orders – one to call it up, and the other to decline review. The applicant initiated the remand in September and a decision is needed this year. Mr. Gutowsky provided a brief history of the issue. There were two issues on the remand, one a typographical error that was corrected; and the adequacy of the wildlife mitigation and monitoring plan. The BLM had not completed its master plan for Cline Buttes at that time. LUBA said that it has to be specific and that there be more mitigation regarding impacts to Wychus Creek.

There is a new remand law coming in 2016 and the applicant is concerned about its ramifications.

He said Paul Dewey, Nunzie Gould and other opponents have questioned whether this can be processed. The Hearings Officer found that the remand was appropriately initiated. It now comes back to just the two issues. The Board can open a hearing on the remand issue, but the Hearings Officer had to rely on the record. When it came to the mitigation plan and monitoring, there is enough specificity per the Hearings Officer. However, the Hearings Officer denied it based on information on the temperature of Wychus Creek because no new information could be allowed.

Mr. Gutowsky stated that the Board needs to decide whether to review this, requiring notice, and that it would be limited to a couple of issues. It would have to be heard on December 21, keep the record open for a couple of days, and they would have to deliberate on December 28, with a final decision on December 30.

Commissioner Baney said the applicant held off for a variety of reasons. Now they want it in a hurry. Mr. Lelack stated they felt they would prevail, and do not even have this current decision yet. This is likely why they waited. They know it will go to LUBA, but wanted some deference from the Board for LUBA discussions.

If the Board says 'no' to a hearing, the applicant could request a hearing again. It would shift to their court and into 2016. Mr. Gutowsky said they will appeal the Hearings Officer's decision so they will have a final decision in 2015.

Mr. Doyle said that the applicant could file a writ of mandamus and accuse the Board of not being timely, since this goes back to 2011.

Regarding the OEDA conference, the Board approved a letter encouraging them to hold their 2016 conference at Sunriver.

UNGER: Move signature of the letter of support.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair votes yes.

At this time, the Board went into executive session under ORS 192.660(2)(d), labor negotiations relating to the mobile crisis team.

Present were Commissioners DeBone, Baney and Unger; Erik Kropp and Whitney Malkin.

After a brief discussion, the Board went back into regular session to take action.

BANEY: Move approval and signature of the agreement as discussed.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

6. Adjourn.

Being no further items discussed, the meeting adjourned at 5:25 p.m.

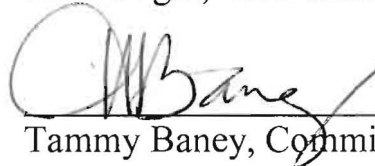
DATED this 9th Day of December 2015 for the
Deschutes County Board of Commissioners.



Anthony DeBone, Chair



Alan Unger, Vice Chair



Tammy Baney, Commissioner

ATTEST:



Recording Secretary



WORK SESSION AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

1:30 P.M., MONDAY, NOVEMBER 30, 2015

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be addressed at the meeting. This notice does not limit the ability of the Board to address additional subjects. Meetings are subject to cancellation without notice. This meeting is open to the public and interested citizens are invited to attend.

Work Sessions allow for the Board to discuss items in a less formal setting. Citizen comment is not allowed, although it may be permitted at the Board's discretion. If allowed, citizen comments regarding matters that are or have been the subject of a public hearing process will NOT be included in the official record of that hearing. Work Sessions are not normally video or audio recorded, but written minutes are taken for the record.

1. Review of Quarterly Performance Measurement Report – *Judith Ure*
 2. Overview of Ordinances Adopting Sage Grouse Inventories and Regulations – *Peter Gutowsky*
 3. Discussion of 4 Peaks Outdoor Mass Gathering Application – *Cynthia Smidt*
 4. Overview of Proposed Marijuana Business Regulations – *Matt Martin*
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Meeting dates, times and discussion items are subject to change. All meetings are conducted in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.

Deschutes County encourages persons with disabilities to participate in all programs and activities. To request this information in an alternate format please call (541) 330-4640, or email anna.johnson@deschutes.org.

5. Other Items

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

6. Adjourn

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Deschutes County
Department Performance Measurements
FY 2015-15 – First Quarter Highlights



The Deschutes County Board of Commissioners annually establishes a series of broad goals and objectives to guide organizational programs, projects, and activities. Each County department then develops indicators that can be used to evaluate progress toward achieving the goals and objectives. These performance measurements are published in the annual adopted budget. At the end of each quarter, departments submit a status report for a limited number of performance measurements, primarily those in which completion has been achieved or barriers have been encountered. The County Administrator then selects highlights to present to the Board. Selections from the first quarter of FY 2015-16 are detailed below.

Safe Communities: Protect the community through planning, preparedness, and coordinated public safety services.

Department	Objective	Measure
District Attorney's Office	#3. Respond to, investigate, and prosecute criminal activity to ensure the guilty are held accountable, the innocent are protected, and the rights of all citizens are respected.	Results from customer service survey of people assisted by Victims' Assistance Program staff.

Q1 Status: The majority of survey respondents indicated a high degree of satisfaction with Victims' Assistance Program staff as follows:

80% agree or strongly agree that the Victims' Assistance Program provided services that helped them make informed decisions.

84% agree or strongly agree the Victims' Assistance Program helped them to better understand their rights as a victim of crime.

72% agree or strongly agree that the information provided helped them to better understand the criminal justice system relative to their case.

Healthy People: Enhance and protect the health and well-being of the community through advocacy, education, and services.

Department	Objective	Measure
Health Services	3. Provide timely and convenient access to quality health and human services.	Transition to new Behavioral Health electronic health records (EHR) system.

Q1 Status: In 2014, the Health Services Department, Behavioral Health Division, developed a plan to transition from the existing Profiler EHR system to the Epic EHR system which was in use by the Public Health Division. The transition to a new system was intended to provide more effective internal controls, enhance user experience, improve productivity, offer better measurement capabilities, and allow for more comprehensive audit processes. Staff worked closely with OCHIN, Epic’s developer, to ensure that these issues were addressed in the system design. During the first quarter of FY 2015-16, the system became fully operational.

Resilient Economy: Promote policies and actions that stimulate economic vitality.

Department	Objective	Measure
Fair & Expo	#4. Support beneficial management and access policies of publicly-owned natural resources to promote tourism and recreational activities.	Total number of visitors to the annual Deschutes County Fair.

Q1 Status: At 251,700, the total number of visitors to the annual fair was just slightly below the 2015 target of 258,000.

Natural Resources: Promote environmental stewardship through assessment, advocacy, and collaboration.

Department	Objective	Measure
Community Development	#1: Enhance and protect air, land, and water resources.	Continue participating with the Bureau of Land Management (BLM)/Governor’s Office regarding sage grouse conservation and U.S. Fish and Wildlife Service (FWS) on the Oregon spotted frog, and adopt Comprehensive Plan or Code amendments as required to protect these species in lieu of an Endangered Species Act (ESA) listing.

Q1 Status: On September 22, 2015, the U.S. Fish and Wildlife Service determined federal land management plans and partnerships with states, ranchers, and NGOs would avert an endangered species listing. On the same day, the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) issued Records of Decisions finalizing land use plans that will conserve key sagebrush habitat and address identified threat to the greater sage grouse on federal land.

On July 24, the Oregon Land Conservation and Development Commission (LCDC) adopted new rules that address potential conflicts between “large-scale development” and sage grouse habitat. These became effective on August 13 and State law, ORS 197.656(3), requires Deschutes County to implement them. The Planning Commission held a public hearing in Brothers on October 8 to take testimony on land use amendments that address potential conflicts between “large-scale development” and sage grouse habitat. The written record was kept open until October 23 and deliberations are scheduled for November 12.

Quality Service Delivery: Maintain confidence in Deschutes County through sound fiscal management and responsiveness to the public.

Department	Objective	Measure
Clerk's Office	#4. Support and promote Deschutes County Customer Service "Every Time" Standards.	Percentage of customers who rate the level of service as good or excellent.

Q1 Status: Of 44 survey respondents, 97.78% rated the customer service provided by the Clerk's Office to be excellent.

Department	Objective	Measure
Property & Facilities	#2: Provide internal support to county operations to ensure cost-effective and efficient delivery of services to the public.	Complete several major building remodel projects to house County programs and to better serve the public.

Q1 Status: The Redmond Services Building is complete and was turned over at the end of August 2015. The facility includes 12 offices for Adult Parole & Probation staff and 4 offices for Juvenile Community Justice staff with separate lobbies and a shared reception area. The South County Services Building remodel was also completed and turned over during the first part of October 2015. New treatment rooms and several additional offices were created in the space that was vacated when Community Development Department moved to the La Pine City Hall.

Effective Asset Management: Preserve and enhance capital and fixed assets.

Department	Objective	Measure
Road	#1: Utilize best management practices to sustain the quality of county assets and infrastructure.	Percentage of system receiving pavement maintenance treatment in a fiscal year.

Q1 Status: With an actual figure of 14.0%, the 2016 target of 13.1% has already been exceeded. The summer chip seal program delivered 95 miles of chip seal to the County network in addition to 2.5 miles of overlay (Wilt Road). Additional overlay projects will be scheduled in the spring, adding to this figure.

Deschutes County FY 2016 Goals and Objectives

Mission Statement

Enhancing the lives of citizens by delivering quality services in a cost-effective manner.

Safe Communities: Protect the community through planning, preparedness, and coordinated public safety services.

1. Collaborate with county and community partners in preparing for and responding to natural and man-made disasters.
2. Promote targeted prevention, diversion, and intervention programs to reduce recidivism and future demands on county services achieved through the continuum of incarceration, detention, and supervision services.
3. Respond to, investigate, and prosecute criminal activity to ensure the guilty are held accountable, the innocent are protected, and the rights of all citizens are respected.
4. Implement the 911 strategic plan for 2015-18.
5. Assess and respond to marijuana legalization as it relates to community law enforcement, health, and land use regulations.

Healthy People: Enhance and protect the health and well-being of the community through advocacy, prevention, education, and services.

1. Consider population health, wellness, and multi-modal connectivity in the design and implementation of infrastructure.
2. Assess and adjust to changing health system reforms, address gaps in service, and strategize regional approaches.
3. Provide timely and convenient access to quality health and human services.
4. Assess, preserve, promote, and protect the basic health and wellness of the community through partnerships, community education, outreach, and advocacy.
5. Identify gaps and needs and advocate for funding solutions related to transit options, homelessness, and affordable housing.

Resilient Economy: Promote policies and actions that stimulate economic vitality.

1. Complete strategic capital projects that strengthen the region's economy.
2. Partner with organizations that stimulate economic vitality.
3. Support land use programs and initiatives that promote economic growth and diversity, livability, and sustainability.
4. Support beneficial management and access policies of publicly-owned natural resources to promote tourism and recreational activities.
5. Pursue inter-jurisdictional and interdepartmental cooperation to enhance service delivery and the cost-effectiveness of public services.

Natural Resources: Promote environmental stewardship through assessment, advocacy, and collaboration.

1. Enhance and protect air, land, and water resources.
2. Educate the public and enforce policies regarding noxious weed control and eradication.

3. Support healthy and sustainable forest and public land management practices and oversight.
4. Restore and maintain landscapes across all jurisdictions that are resilient to fire-related disturbances.
5. Partner with community members and appropriate agencies to preserve and protect South County's water resources.

Quality Service Delivery: Provide internal support and external services that are innovative, efficient, and comprehensive.

1. Encourage and expand opportunities for public engagement with Deschutes County government.
2. Provide internal support to county operations to ensure cost-effective and efficient delivery of services to the public.
3. Support employee wellness, development, productivity, and job satisfaction.
4. Support and promote Deschutes County Customer Service "Every Time" Standards.
5. Adapt to changing state and federal laws, industry trends, and community needs in continuing to provide innovative services to the public.

Effective Asset Management: Preserve and enhance capital and fiscal assets.

1. Utilize best management practices to sustain the quality of county assets and infrastructure.
2. Improve financial and human resources data systems to promote streamlined business processes.
3. Develop financial strategies to ensure long-term stability.
4. Plan for long-term building and facility capital needs including major maintenance and replacement strategies.

**Deschutes County
Department Performance Measurements
FY 2015-16 – First Quarter**

All Department Responses

9-1-1 Service District

Safe Communities/Objective #3

- 95% of all 9-1-1 calls will be answered within 5 seconds: Achieved 93.5%
- 99% of all 9-1-1 calls will be answered within 10 seconds: Achieved 99.7%
- Calls will be referred to dispatch in 12 seconds or less: Achieved 7 seconds.

Safe Communities/Objective #4

- Determine the District's intermediate and long term operational and capital needs including planning, construction, maintenance and oversight of a countywide, multi-jurisdictional, multi-disciplinary communications system: Completed.
- Concurrently develop partnerships and a governance agreement for the replacement communications system: When the agreement for the partnership with the State Radio Project is completed in December or January, the District will initiate contact with potential partners. The 9-1-1 User Board accepted responsibility for operational oversight of the new radio system.
- Obtain voter approval for permanent funding for the District which supports its ongoing operations and long-term capital needs, including a county-wide communications system: Pending for May 2016.
- All vacant line positions will be staffed with fully trained Telecommunicators by the end of calendar year 2015 and the training program success rate for new hires will be 75% or higher: Due to a far higher than expected trainee resignation rate, this goal will not be met.

Administrative Services

Quality Service Delivery/Objective #2

Value and percentage of grant applications submitted by Administrative Services that are awarded funding:
\$1,065,927/100% for public transportation funds (2 applications).

Quality Service Delivery/Objective #3

Number of workplace accidents that require days away from work, restricted, or transferred workers per 100 employees (DART rate): Target 2.0 / Actual 1.51.

Quality Service Delivery/Objective #4

Partner with organizations that stimulate economic vitality: Value of economic development loans made: Target \$100,000 / Actual \$74,000 (Kollective - \$50,000 + i3D Manufacturing - \$24,000)

Assessor's Office

Quality Service Delivery/Objective #4

- Written approval by the Department of Revenue for the Assessor's Certified Ratio Study: The ratio study isn't completed and submitted until May
- Percentage of tax statements mailed by October 25th: 100% completed
- Written certification from the Department of Revenue approving the County Assessment Function Assistance (CAFFA) program: This was received and approved for FY15/16 in June of 2015. The grant application for FY16/17 will be completed and submitted by May 1, 2016

Auditor

Quality Service Delivery/Objective #2

- Recommendation acceptance rate: Target 90% / Actual 100% (6 of 6).
- Customer survey satisfaction: Target 90% / Actual 100% (5 of 5/2 responses)

Clerk's Office

Quality Service Delivery/Objective #4

- Complete verification of real property index within 3 days of the date of recording: Target 95 % of the time / Actual 0% (Average=10 days).
- Percentage of County Records Center file requests completed within 24 hours: Target 99% or better / Actual 99.36% (157 requests).
- Percentage of customers who rate the level of service as good or excellent: Actual 97.78% - Excellent (44 responses).
- Election personnel cost comparison per 1,000 ballots tallied for countywide elections: Will be available in May.

Community Development: Attached at end of document.

Community Justice

Goal/Objective	Measure	Target	Q1
<u>Safe Communities/Objective #2</u>	(1) Percent of juvenile community justice officers meeting contact and skill building goals with medium and high risk offenders	80%	67%
	(2) Percent of juveniles presented to detention who commit a new offense or technical violation prior to their disposition	10%	Once per year measurement; will report in Q4.
<u>Safe Communities/Objective #5</u>	(3) Percent of first-time juvenile marijuana and alcohol violators assessed as low risk who reoffend within one year	15%	Once per year measurement; will report in Q4.
<u>Quality Service Delivery/Objective #5</u>	(4) Percent of juvenile cases assessed and initially routed within 10 days of referral receipt.	80%	18%
<u>Safe Communities/Objective #2</u>	(5) Percent of adult felony probationers' successful case closures	75%	62%
	(6) Number of adult offender sanctions ordered	700	335
	(7) Number of adult offender revocations processed	25	14
	(8) Number of interventions provided to adult offenders	600	158
	(9) Percent of successful case closures of adults on felony post-prison supervision	50%	55%

District Attorney's Office

Safe Communities/Objective #3

- Total cases filed, broken down by felony, misdemeanor, juvenile delinquency, juvenile dependency, civil commitment: Average annual cases filed per DDA shown in table below.
- Total cases reviewed: Average annual cases reviewed per DDA is shown in table below.

Quarter 1 July – September 2015		
	Total Cases Reviewed	Total Cases Filed
Felony	616	518
Misdemeanor	1045	804
Juvenile Delinquency	54	49
Juvenile Dependency	22	22
Mental Health Holds	90	*
Civil Commitment Hearings	88	3
Death Investigations	76	
Public Records Reviews	38	
Expungements	11	11
“Relief” Cases		
Reinstatement of Driver’s License	1	1
Relief from Sex Offender Registration		
Other Cases (violations, investigation, contempt, non-offense cases, etc.)	14	11
Total:	2055	1416
Per DDA:	115**	79**

*Any Mental Health Hold that resulted in a case being filed is accounted for in the Felony and Misdemeanor case totals.

**Accounts for 2 Deputy District Attorney’s being out on FMLA leave.

- Number of contact with victims in active cases by staff in Victims’ Assistance Program: 7,721 points of contact. This includes multiple contacts on a single case.

Safe Communities/Objective #2 & Healthy People #4

Partner with Sheriff, Circuit Court, defense counsel and other community partners on at least one initiative to reduce the adult jail’s pre-trial population: The DeschutesSafe program has been meeting since June 11, 2015. We have had 6 productive meetings. During this time the DeschutesSafe Community Advisory Group and the DeschutesSafe Working Group have been established. The groups are comprised of:

John Hummel
Shane Nelson
Honorable Alta Brady
Jim Porter
Dave Tarbet
Ken Mullen
George Endicott
Ken Hales
Marney Smith
Amanda Gow
Jaime Aguirre

Chris Gardner
Andrew Doyle
Charla DeHate
Naomi Mozelle
Gwenn Wysling
Bob Gomes
Cyndy Cook
Tonay Karlowicz
Bruce Abernethy
Terry Schroeder
Austin Purcell

Cindy Tisher
Sally Pfeifer
Debbie Baker
Deevy Holcomb
Janet Huerta
Jessica Jacks
Julianne Repman
Teryl Young
Kathleen Meehan Coop
Kara Palacio

Safe Communities/Objective #3

Driving under the influence of intoxicants trial conviction rate:

Felony DUI	Misdemeanor DUI	Trials	DUI Acquittals
7	252	11	0

100 % trial Conviction Rate (for resolved cases).

Safe Communities/Objective #2

Driving under the influence of intoxicants diversion program success rate: This information is not available as diversion programs can last up to 1 year. We will be able to track accurate diversion program success rates beginning July 1, 2016. The total number of individuals that have entered diversion during quarter 1 is 52.

Safe Communities/Objective #3

Average elapsed time to final disposition (in days) for adult misdemeanor cases:

Average elapsed time to final disposition for adult misdemeanor cases closed during quarter 1 is 178 days (average number of days for all cases that were closed in the selected quarter).

Safe Communities/Objective #3 & Quality Service Delivery #5

Results from customer service survey of people assisted by Victims' Assistance Program staff (see results below).

Question #1: The Victims' Assistance Program provided me with services that helped me make informed choices about my situation

- 28% Strongly Agree
- 52% Agree

- 8% Disagree
- 0% Strongly Disagree
- 12% No Opinion

Question #2: As a result of the information I received, I better understood my rights as a victim of crime.

- 36% Strongly Agree
- 48% Agree
- 0% Disagree
- 0% Strongly Disagree
- 12% No Opinion

Question #3: The information given to me by the Victims' Assistance Program helped me better understand the criminal justice system as it relates to my case.

- 36% Strongly Agree
- 36% Agree
- 8% Disagree
- 4% Strongly Disagree
- 16% No Opinion

Comments:

- Was a little frustrated towards the end of their case because victim felt she was bounced around from advocate to advocate.
- Thank you so much
- Every level I am disgusted with the DA's office. When I contacted the Victim Advocates they were helpful. Restitution was not sought properly and I lost thousands. The DDA failed to do their job.

Fair & Expo

Resilient Economy/Objective #4

- Value of economic impact generated from Fair and Expo events and facilities: Target \$35 million / Actual \$18 million to date.
- Total number of visitors to the annual Deschutes County Fair: Target \$258,000 / Actual \$251,700.

Quality Service Delivery/Objective #3

Customer Satisfaction with concessions, catering, facilities, operations, sales staff, and management: Target 90% / Actual 100%.

Effective Asset Management/Objective #4

Increase in Transient Room Tax collections: Target: Increase by 12% above FY15 – overnight stays. Actual: Overnight stays = 16,658. 3639 increased by – 400+%

Finance

Effective Asset Management/Objective #2

- Complete software vendor selection process and final contract negotiation by December 31, 2015: Demonstrations were held in August and September 2015 by three vendors. After that process, the selection committee moved both Sungard and Tyler to the reference and possible site visit stage of the selection process. Reference calls have continued into October and November. We expect to begin contract negotiations in January and hope to have a contract in place by March 31, 2016.

Effective Asset Management/Objective #2

- Maintain a five year financial plan for the County General Fund and other major funds. Complete the plans by December 31, 2015 for use in the 2017 budget process: A preliminary five year plan has been developed for the general fund, 9-1-1, CDD and the Sheriff's funds. We will continue to refine these and develop plans for other major funds in anticipation of the FY 2017 budget process.
- Review and update financial policies to include sustainability strategies and reserve targets for the general fund and other major funds and activities. Complete by December 31, 2015 for use in the FY 2017 budget process: This goal will be accomplished during the second Quarter.

Quality Service Delivery/Objective #1

Review and enhance access to County financial and treasury information on the county website and in the media: The County website was updated in the fall of 2014 with the open budget tool for viewing the 2015 budget for the County. The 2016 budget will be placed in the same format on the website before the end of November. In addition, the monthly Treasurer's report along with a detailed report of all investment securities along with the County investment policy has also been posted on the website. We also worked with Whitney and the Assessor's office to issue a press release about property tax bills.

Health Services

Healthy People/Objective #1

- 95% of licensed facilities receive inspections by environmental health staff per state requirements: Report calendar year total for 2015 in January.
- 95% of communicable disease investigations will be completed within 10 days, as defined by the Oregon Health Authority: Report calendar year total for 2015 in January.

Healthy People/Objective #2

Provide leadership in the development of the regional health assessment and regional health improvement plan for Central Oregon: The regional health improvement plan for Central Oregon includes priorities, goals, and strategies. The 5 priority areas have been finalized and include: Diabetes, Cardiovascular Disease, Behavioral Health, Oral Health, and Reproductive/Maternal Health. We are currently in the process of creating goals and strategies for each priority.

Healthy People/Objective #3

- 70% of individuals discharged from a psychiatric hospital receive an outpatient behavioral health visit within 7 calendar days of discharge: 81% achieved.
- Behavioral Health Oregon Health Plan clients seen within State timelines – Urgent, within 48 hours: Target 100% / Actual 93%.
- Behavioral Health Oregon Health Plan clients seen within State timelines – Routine, within 2 weeks: Target 100% / Actual 98%.
- 90% of children and adolescents referred by DHS receive a behavioral health assessment within 60 calendar days of referral: 100% achieved.
- Increase number of families served by public health home visiting by 5%: Target 222 / Actual 212. Annual increase to be reported at end of FY 2016.

Healthy People/ Objective #4

- 75% of reproductive health clients age 12 and older will receive an annual alcohol and drug screening using the CRAFFT or SBIRT screening tools: 96% achieved.
- 70% of participants in the Living Well with Chronic Conditions Program or Diabetes Self-Management Program complete the program: 88% achieved.
- Increase the number of DCHS clients receiving primary care services from Harriman Health Care Integration project by 50%: 75% achieved.

Quality Service Delivery/Objective #4

Develop and implement an Intellectual and Developmental Disabilities customer satisfaction survey that addresses national core indicators: The survey was developed and implemented.

Effective Asset Management/Objective #4

Remodel the Deschutes County Health Services Wall Street and South County sites: South County Building remodel completed. Wall Street Services Building to begin in December 2015.

Human Resources

Quality Service Delivery/Objective #3

- Work with Finance and County departments to select and begin implementing an ERP system: Finalists were onsite presenting demos.
- Re-engineer new hire process, including employee orientation: Enhanced the new hire orientation to include an interactive game of jeopardy and payroll facts.
- Other: Visited various sites conducting open enrollment benefit sessions.
- Other: Completed annual health benefit open enrollment.
- Other: Released the benefits RFP and completed the selection process.

Information Technology

Quality Service Delivery/Objective #1

- Enhance the services used to publish Board Business Meeting information on the internet: Efforts were made to expand the use of services from Granicus, an existing software vendor. We could not reach favorable terms with the vendor so that approach was scrapped. We are starting from scratch working closely with Administrative staff and the Public Information Officer testing ideas and alternative approaches. Being a high dependence on non-IT Department staff, we cannot commit the completion of this measure this fiscal year. However it remains a priority for IT to continue moving this effort forward.

Quality Service Delivery/Objective #2

- Assist the Finance and Personnel departments with the replacement of their software systems: Staff from the IT Department has actively participated as part of the core team charged with the evaluation and selection of replacement financial and HR software. Selection and contracting expected to be complete no later than spring of 2016.
- Assist the Road and Sheriff Departments with an upgrade of their data backup systems: The IT Department executed an upgrade to primary backup systems. The upgrade resulted in existing backup resources becoming available for the Sheriff to use. IT staff worked with Sheriff IT staff in the design and specification of equipment to upgrade the Sheriff's data systems. As part of these yet to be completed upgrades, the Sheriff will employ backup resources made available at no cost by IT. Expected completion by June of 2016.

The IT Department is working on upgrading the communications link between the downtown Data Center and the Road Department facilities. Once completed the Road Department plans to transfer its management of their IT equipment resources to the IT Department. Expected completion by June of 2016.

- Complete an upgrade of the central email system by June 2016: This measure was completed on October of 2015.

- Complete an upgrade of the phone system by June 2016: This measure was been completed in October of 2015. Work continues on evaluating and implementing new features gained from the upgrade.

Justice Court

Safe Communities/Objective #2

- Reduce outstanding receivable balance and increase the collection rate 1) Percentage increase in receivables. 2) Rate of collection on fines: During the first quarter of 2015-2016, \$376,577 was assessed in new receivables and \$222,317 was collected. This is a collection rate of approximately 64%. It should be noted, that Justice Court has once again had a change in software. Over the past three years, Justice Court has used three types of software to compute receivables, adjustments and payments. It is difficult to achieve concrete statistics with fluid data.
- Percentage of at-issue small claims cases resolved before trial: 245 small claims cases were filed during the first quarter of 2015-2016. Six of these will be going to trial. That is a resolution rate of approximately 98%.

Legal Counsel

Quality Service Delivery/Objective #2

Maintain direct communications and working relationships with all County departments to better understand existing and developing legal needs: County Counsel meets on a regular basis with all department heads in order to receive feedback on performance metrics; information is shared with legal department staff and following group assessment, changes are made as necessary to ensure the provision of accurate and timely legal services.

Natural Resources

Natural Resources/Objective #4

Begin implementation of the FEMA pre-disaster mitigation grant and South County Fuels Mitigation grant. These grants have a collective target of treating over 2500 acres of hazardous fuels in the highest priority areas in various communities throughout the County: We have begun treatment of fuels under the South County Fuels Mitigation grant. To date 153 acres have been treated. Work has not begun on the FEMA pre-disaster mitigation grant, however agreements are being put into place so work can begin over the winter and early spring.

Property & Facilities

Healthy People/Objective #5

Work with local organizations and State of Oregon to acquire funding for capital improvements for homeless shelters and housing projects: Staff has identified a parcel of property in South County/La Pine that would be suitable for affordable housing and has communicated with a local developer of affordable housing about the potential of developing a project on this site. The Board has authorized eventual transfer of this property to a developer once funding is acquired and there is assurance that a project will move forward.

Quality Service Delivery/Objective #2

Complete several major building remodel projects to house County programs and to better serve the public:

1. The Redmond Services Building is complete and was turned over end of August 2015. There are 12 offices for Adult Parole & Probation and 4 offices for Juvenile with separate lobbies and a shared reception.
2. We are in permitting and bidding for the Wall Street Building remodel project. Bids are due November 17, with construction expected to commence mid-December. Health Services occupants have been moved out to temporary sites. The Law Library will be cleaned out first part of December. Construction is estimated to last approximately 8 months. The DOC clinic, pharmacy, and wellness spaces will remain untouched, and operations here will continue as usual.
3. The South County Services Building remodel was completed and turned over first part of October 2015. New treatment rooms and several additional offices were created in the space that was vacated when Community Development Department moved to the La Pine City Hall.
4. The Courthouse/District Attorney remodel is occurring in three phases. The first phase was moving out the State's jury assembly operations and converting that space into a large conference room and new offices. That phase was completed in mid-October 2015. The second phase is the interior tenant improvement to the first floor area to re-orient reception, which involves building new reception space and offices. This will be completed early January 2016. The third phase is the breezeway connection between the red and gray courthouse buildings. That is expected to be complete February 2016.

Road

Effective Asset Management/Objective #1

- Pavement Condition Index - Report the overall average Pavement Condition Index (PCI) of the county paved road network. The PCI is a measure of the quality of pavement ranging from 0 (completely failed) to 100 (new surface). A PCI greater than 70 is considered "good" and optimum maintenance efficiency occurs within the low to mid-80s range:

<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u> <u>Target</u>	<u>FY 2016</u> <u>Actual</u>
78*	80	80	80	80	n/a

The PCI will be calculated in Q2 after an inspection of County road facilities and an update to the annual Pavement Management Program's Budget Options Report.

- Percent of roads rated good or better:

<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u> <u>Target</u>	<u>FY 2016</u> <u>Actual</u>
73.4%*	72.0%*	86.4%	90.8%	92.6%	n/a

This PM will be calculated in Q2 after an inspection of County road facilities and an update to the annual Pavement Management Program's Budget Options Report.

- Percent system resurfaced:

<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u> <u>Target</u>	<u>FY 2016</u> <u>Actual</u>
10.9%	13.6%	11.5%	13.5%	13.1%	14.0%

The summer chip seal program delivered 95 miles of chip seal to the County network in addition to 2.5 miles of overlay (Wilt Road). Additional overlay projects will be scheduled in the spring, adding to this figure.

PCI Sustainability Ratio:

<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u> <u>Target</u>	<u>FY 2016</u> <u>Actual</u>
n/a	n/a	83.5%	91.1%	97.5%	n/a

This PM will be calculated in Q2 after an inspection of County road facilities and an update to the annual Pavement Management Program's Budget Options Report.

Effective Asset Management/Objective #4 and Resilient Economy/Objective #1

- In addition to the above Performance Measures, the Road Department will provide periodic updates regarding progress and delivery of CIP projects to the Board of County Commissioners relating to the Commission's goal of: Effective Asset Management: Preserve and enhance capital and fiscal assets, and Resilient Economy: Promote policies and actions that stimulate economic vitality.

Sheriff's Office

Safe Communities/Objective #2

- Number of Inmates participating in jail GED programs: During the first quarter of 2015-16, a total of 21 inmates participated in Jail GED programs or 32% of the FY2016 Target of 65 inmates.
- Number of Patrol Calls for Service: During the first quarter of 2015-16, the number of Patrol Calls for Service was 9,965 or 28% of the FY2016 Target of 35,340 calls.
- Number of self-initiated Patrol Calls for Service: During the first quarter of 2015-16, the number of self-initiated Patrol Calls for Service was 9,142 or 20% of the FY2016 Target of 45,396 calls.

Safe Communities/Objective #1

Number of emergency preparedness exercises: During the quarter the Sheriff's Office Emergency Management staff participated in the Laine water break/shut off. The Emergency Management staff also provided support to Baker County and Grant County during actual fires.

Effective Asset Management/Objective #4

Replace existing HVAC units and repair the roof on the old section of the jail: This work will begin in Quarter 2.

Solid Waste: No Response Provided.

**CDD Performance Measures
FY 2015-16**

First Quarter

Goal: Safe Communities: Protect the community through planning, preparedness, and coordinated public safety services.

Objective #5 **Assess and respond to marijuana legalization as it relates to community law enforcement, health, and land use regulations.**

Measurement #1 Adopt amendments to County Code regulating recreational marijuana in compliance with State regulations.

Update: Planning staff coordinated with the BOCC during several work sessions in August and September to draft marijuana regulations for Planning Commission and public review. The Planning Commission conducted a work session on October 22, will conduct hearings on Nov. 5 and 12, and make a recommendation to the BOCC on Nov. 23. BOCC work sessions, public hearing(s), and deliberations will be conducted and completed in December.

Goal: Resilient Economy: Promote policies and actions that simulate economic vitality.

Objective #2 **Partner with organizations that stimulate economic vitality.**

Measurement #2 Coordinate with the City of Bend to adopt the Bend Airport Master Plan Update into the County's Comprehensive Plan and zoning code to promote economic sustainability and growth at the Airport.

Update: Later this winter, a plan amendment initiated by the City of Bend is anticipated to formally update the Airport Master Plan.

Measurement #3 Coordinate with the City of Redmond to amend its Urban Growth Boundary (UGB) for a large-lot industrial site and future Fairgrounds expansion.

Update: The City of Redmond anticipates initiating two UGB amendment applications late winter, early spring.

Objective #3 **Support land use programs and initiatives that promote economic growth and diversity, livability, and sustainability.**

Measurement #4 Administer a 3-year US EPA Brownfields Assessment grant with the Cities of Bend, La Pine, Sisters, and Redmond to identify contaminated commercial sites and plan for redevelopment.

Update: Remaining grant funding for an Environmental Site Assessment is being targeted to the Bend Park and Recreation District to address sedimentation at Mirror Pond.

Measurement #5 Advocate for the Land Conservation and Development Commission (LCDC) to develop and adopt OARs to implement The Big Look Law (HB2229), and participate in the rulemaking process. Upon rule adoption, coordinate with the Department of Land Conservation and Development (DLCD) to develop a work plan to implement the law and accurately designate resource and non-resource lands in rural Deschutes County.

Update: On May 6, the Board submitted a letter to Director Rue respectfully requesting rulemaking for HB 2229. Later this fall, staff will initiate three amendments to County code: 1) Text amendment to Comprehensive Plan, Chapter 2, Section 2.2 and Chapter 3, Section 3.3, recognizing non-resource lands process allowed under State law to change EFU zoning; 2) Text amendment to zoning code providing a definition of agricultural-exempt buildings; and, 3) Reducing setbacks in the Forest 2 Zone, explicitly for Haner Park Subdivision.

Objective #4

Support beneficial management and access policies of publicly owned natural resources to promote tourism and recreational activities.

Measurement #6 Coordinate with the Sunriver Owners Association (SROA) on a solution to conflicts between traffic on Spring River Road and those seeking to launch boats or float on the Deschutes River from Harper Bridge.

Update: CDD, Administration, and Road Dept. staff continue to meet with SROA, Sunriver Resort, and Crosswater representatives on solution to provide off-street parking on the SROA and Crosswater sides of Century Drive in lieu of the installed rumble strips.

Objective #5

Pursue inter-jurisdictional and interdepartmental cooperation to enhance service delivery and the cost-effectiveness of public services.

Measurement #7 Maintain one-stop development services shops in the La Pine and Sisters' city halls, and coordinate with the City of Redmond to establish a one-stop development services shop at Evergreen in fall 2016.

Update: Actively engaging the City of Sisters Executive/Management team to renew an Intergovernmental Agreement (IGA) for building services. The current IGA expires 12/31/15. Continue to staff La Pine City Hall one day per week, as well as coordinate and participate with City and County staff in establishing a one-stop shop at the Evergreen site in Redmond.

Goal: Natural Resources: Promote environmental stewardship through assessment, advocacy, and collaboration.

Objective #1 **Enhance and protect air, land, and water resources.**

Measurement #8 Continue participating with the Bureau of Land Management (BLM)/Governor's Office regarding sage-grouse conservation and U.S. Fish and Wildlife Service (FWS) on the Oregon spotted frog, and adopt Comprehensive Plan or Code amendments as required to protect these species in lieu of an Endangered Species Act (ESA) listing.

Update: On September 22, 2015, the U.S. Fish and Wildlife Service determined federal land management plans and partnerships with states, ranchers, and NGOs avert an endangered species listing. On the same day, the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) issued Records of Decisions finalizing land use plans that will conserve key sagebrush habitat and address identified threats to the greater sage-grouse on federal land.

On July 24, the Oregon Land Conservation and Development Commission (LCDC) adopted new rules that address potential conflicts between "large-scale development" and sage grouse habitat. They became effective on August 13. State law, ORS 197.646(3) requires Deschutes County to implement them. The Planning Commission held a public hearing in Brothers on October 8 to take testimony on land use amendments that address potential conflicts between "large-scale development" and sage grouse habitat. They kept the written record open until October 23. Deliberations are scheduled for November 12.

Objective #5 **Partner with community members and appropriate agencies to preserve and protect South County's water resources.**

Measurement #9 Coordinate with the Department of Environmental Quality (DEQ) and DLCD to adopt a Goal 11 Exception for southern Deschutes County.

Update: The Board held a hearing in Sunriver on October 28 to take testimony on a Goal 11 exception that would allow sewers in the rural portions of southern Deschutes County.

Measurement #10 Partner with NeighborImpact to provide financial assistance to property owners needing to upgrade their onsite wastewater treatment systems, and coordinate with DEQ to issue protective onsite wastewater treatment system permits and water quality risks and monitoring.

Update: Approximately four new NeighborImpact partnership loans have been approved recently, and at least three have been acted upon. This new activity will deplete the available funds and may significantly limit available funds for future assistance. Two nitrogen system rebates have been provided this quarter.

Goal: Quality Service Delivery: Provide internal support and external services that are innovative, efficient, and comprehensive.

Objective #1 Encourage and expand opportunities for public engagement with Deschutes County government.

Measurement #11 Expand permit and land use project tracking systems on the CDD website, and expand usage of social media to announce CDD-related project events.

Update: CDD is working with new PIO Whitney Malkin to provide media training to CDD staff by March 2016 and expand the use of social media. In addition, CDD is continuously striving to improve project tracking systems and to make those systems available to the public.

Objective #2 Provide internal support to County operations to ensure cost-effective and efficient delivery of services to the public.

Measurement #12 Achieve 85% voluntary compliance in Code Enforcement cases.

Update: Case compliance rate for the 1st quarter is 81.4%.

Objective #4 Support and promote Deschutes County Customer Service “Every Time” standards

Measurement #13 Achieve an average turnaround time on building plan reviews of 5 days.

Update: The average turnaround time for commercial and residential plan reviews this quarter is 9.08 days, which is still in compliance with State requirements.

Measurement #14 Develop new performance measures as part of the CDD 5-Year Financial Plan that accurately measure CDD’s service delivery from the customer’s perspective.

Update: CDD and its consultant completed the first draft of the performance measures, presented and discussed them with stakeholders, and conducted a BOCC work session. The final draft will be completed by the end of the second quarter. CDD will then work with stakeholders and the Board to adopt and implement the performance measures, and incorporate them into the 2016-17 Annual Report and Work Plan.

Goal: Effective Asset Management: Preserve and enhance capital and fiscal assets.

Objective #3 Develop financial strategies to ensure long-term stability.

Measurement #15 Complete and implement CDD Comprehensive User Fee Study and 5-Year Financial Plan.

Update: CDD and its consultant completed the first draft of the Comprehensive User Fee Study and 5-Year Financial Plan, presented and discussed it with stakeholders, and conducted a BOCC work session. The final draft will be completed by the end of the second quarter. CDD will then work with stakeholders and the Board to adopt and implement the Plan, and incorporate this Plan into the 2016-17 Annual Report and Work Plan.

DCHS BH EHR Transition Team

Review of Success Factors for EHR Transition

On November 4, 2015, an implementation debrief session was conducted with the Transition Team (EHR team, Quality team and the supervisor from each team in Behavioral Health). The group was asked to review the list of success factors compiled by the group on May 6, 2015.

To ensure a successful EHR transition for behavioral health, the Transition Team identified the following keys to success to focus on during the planning and implementation of OCHIN/Epic EHR.

- **All BH Staff receive necessary training**
 - All end users trained prior to go-live (~200 employees).
 - The training was both general and customized for each team.
 - Two-day “dress rehearsal for all staff immediately before go-live.
 - Lunch and Learns provided during two months leading up to go-live and continued after go-live.
- **An EHR that is user friendly**
 - Consensus of Transition Team was “yes.” It was identified as a marked improvement over Profiler (the previous EHR system).
- **All users have prior contact with the system before Go Live**
 - Yes, all staff had access to a training environment prior to the go-live.
- **Interoperability with other EHRs**
 - Yes, OCHIN-Epic is a collaborative, which enables the sharing of files with critical community partners (Mosaic Medical, La Pine Community Clinic).
- **All users have knowledge and feel comfortable with the system**
 - This is an ongoing effort. The continuation of lunch and learns, as well as on-site EHR support, has supported staff in getting comfortable with the system.
- **Support is available when needed**
 - Recognizing the limitations of having three members of the EHR team available to support over 200 users, an email ticketing system was established.
 - EHR staff established office hours at various locations to provide direct support.
 - EHR staff was provided access to view system remotely for providing support.
 - Transition Team indicated EHR staff is easily accessible and helpful for support.
- **Availability of resource materials/manuals**
 - Workflows created for all primary system functions. All documents maintained in a file accessible from all desktops.
- **Minimal impact on client care**
 - Reduced scheduling during period directly following go-live.
 - Scheduling was a challenge initially. Centralized scheduling to be rolled out beginning in December.
 - Not all services were available in Service Plans initially. This issue has since been resolved by OCHIN.
 - Remote access initially limited number of employees. Working with IT Department, a solution was discovered that does not limit access.
 - Transition to ICD-10 (diagnosis coding) and DSM 5 (Behavioral Health coding) on same day as go-live created initial diagnosis challenges. Staff still getting acquainted with new coding.
- **Open dialogue internally regarding expectations**
 - Regular Transition Team meetings leading up to go-live was helpful.

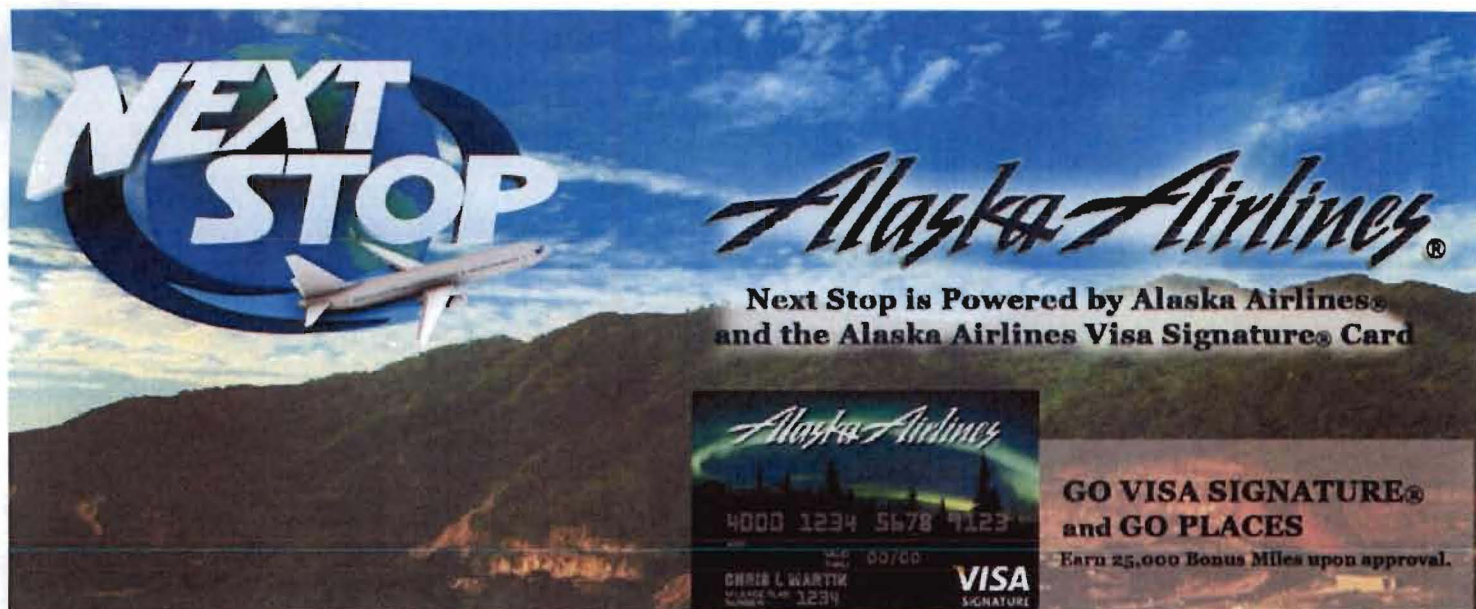
- **Maintain client confidentiality**
 - Revised consent agreement to address collaboration was a challenge for some employees. Talking points developed for staff to use in explaining collaborative to clients.
 - Alcohol and drug treatment client (42 CFR) documentation could not be maintained in OCHIN-Epic due to confidentiality requirements. Currently, maintained in Profiler. This function
- **Effective “hard stops” (alerts for prescribed services)**
 - Most hard stops included. Requests submitted to OCHIN for three additional hard stops.
- **Improved productivity**
 - To be determined
- **Scheduling**
 - Scheduling different than in previous system. This has required a process change.
- **Fewer “clicks”**
 - Yes
- **Confidence with system prior to Go Live**
 - Feedback that dress rehearsals significantly improved confidence immediately prior to go-live.
- **Smooth operations from beginning through to billing**
 - Workflows, developed in collaboration with staff, providing support.
- **Enhanced reporting capabilities**
 - To be determined
- **Enhanced internal (system) communication**
 - Daily emails immediately following go-live. Weekly emails currently being distributed.
 - Workflows, workflow folder, email ticketing system provide greater level of support beyond EHR team.
 - Transition Team (renamed EHR team) will continue to meet twice a month.
- **Representation for support at all locations**
 - At least one superuser trained for each team.
 - EHR team established office hours at various locations.
- **No loss of data**
 - No longer an issue.
- **Retrieving deleted data**
 - No longer an issue.
 - Historical data accessible through link.
- **Ease of documentation**
 - Ongoing efforts conducted to improve staff efficiency with documentation.
 - Consensus that documentation is easier for most situations.

Concerns Identified by the Internal Audit Report

1. Lacks effective internal controls for compliance
2. User dissatisfaction with system
3. Extensive and continuing implementation
4. Numerous disruptions impacting productivity
5. Measurement of staff productivity difficult
6. Lacks effective quality mgmt audit process
7. Audit log controls insufficient

Implementation Process

- Experienced Implementation Team
 - Cherstin Callon – implementation management & vendor relations
 - Nicole Chunestudy – training & workflow processes
 - Rich Drombetta – data migration & reporting
- Transition Team
 - Representatives from all end user groups
 - Similar group currently meeting weekly



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Where to find Next Stop:

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 AWE Currently Airs On:

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 - Fidelity Cablevision
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 Episodes: 50
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Date: 11-23-15

Dan/Ross,

The Tentative Ride List Is:

Dragon Wagon
Carousel
Monkey Maze
Raiders
Pink Slide
Tug Boat
Crazy Bus
Dizzy Dragons
Dive Bomber
Mini Pirate
Ghost Party
Jump Cycles or Berry-go-Round
4 x 4's Combo or Balloon Ride
Mini Scrambler or Bounce

Expo Wheel
Pharaoh's Fury
Wacky Worm
Fireball
Flying Bobs
Tornado
Zipper
Rock Star
Starship
Wipe Out
Mardi Gras
Sizzler
Orbiter
Drop Tower
Startrooper
Tilt-a-Whirl or Spider

Any ride substitutions or changes will be talked over with you. The Drop Tower is tall and looks like the Vertigo, it will be a nice change up.

The Rock Wall is paid to you thru the game monies, if we go over the amount of games we can mutually come to a fee per unit over the amount in the proposal. Sorry I just remember we talked about a Ride List.

Happy Thanksgiving!!!!

Pat & Geraldine & Family
503-539-4526



County Clerk's Office
Nancy Blankenship, County Clerk

PO Box 6005, Bend, OR 97708-6005
1300 NW Wall St., Suite 202, Bend, OR 97701-1960
Fax (541) 383-4424
Recording (541) 388-6549
Elections (541) 388-6547
www.deschutes.org

CUSTOMER SATISFACTION SURVEY

1. The Clerk's Office provides the following primary services: elections (including voter registration), issuing marriage licenses, accepting passport applications and recording real property records.

During your visit to the Clerk's office, which services did you seek?

☐ Elections ☐ Marriage License ☐ Passport Application ☐ Recording Real Property

Describe your reason for visiting the Clerk's Office:

--

2. Please rate your overall satisfaction with your interaction with the Clerk's Office staff. How would you rate the staff person's...

	Excellent	Very Good	Good	Fair	Poor	No Opinion
Ability to help you?						
Overall knowledge in assisting you?						
Courtesy and professionalism?						
Helpfulness and willingness to assist you?						
Ability to complete your transaction accurately?						

Overall experience in the Clerk's Office?

--	--	--	--	--	--

3. Please provide other comments that would improve your next visit/contact with the Clerk's Office:

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Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005

(541)388-6575 FAX (541)385-1764

<http://www.co.deschutes.or.us/cdd/>

MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Matthew Martin, Associate Planner

DATE: November 24, 2015

SUBJECT: Proposed Marijuana Related Business Regulations. County Land Use File No. 247-15-000542-TA.

I. SUMMARY

The Board of County Commissioners (Board) will hold two public hearings on proposed land use regulations for marijuana-related businesses in unincorporated Deschutes County. The hearings are scheduled for 1:30 p.m. and 6 p.m. on Wednesday, Dec. 2. These legislative amendments to Deschutes County Code (DCC) implement reasonable time, place, and manner land use regulations for production (growing), processing, wholesaling and retailing of medical and recreational marijuana.

II. BACKGROUND

Recreational marijuana became legal for personal use in Oregon on July 1, 2015. The Oregon Liquor Control Commission (OLCC) adopted temporary administrative rules on Oct. 22, 2015, effective January 1, 2016, to administer and implement the law to regulate recreational marijuana purchase, sale, production, processing, transportation and delivery. The OLCC will begin receiving license applications by January 4, 2016, to produce, process, wholesale and retail recreational marijuana. Medical marijuana production, processing and retailing are regulated by the Oregon Health Authority (OHA) with changes to the existing state law in these areas set to take effect on March 1, 2016.

State law provides for four categories of OLCC-licensed, marijuana-related uses—recreational marijuana production, recreational marijuana processing, recreational marijuana wholesaling and recreational marijuana retailing—and three categories of OHA-registered, marijuana-related uses—medical marijuana production, medical marijuana processing and medical marijuana dispensaries.

Deschutes County may not completely prohibit any of the defined types of marijuana-related land uses without a vote of the people. However, state law gives the county the authority to adopt “reasonable regulations” regarding these uses.

In September 2015, the Board held a series of work sessions to draft proposed standards for marijuana-related businesses in unincorporated Deschutes County for the Planning Commission to review and provide a recommendation after conducting public hearings.

On November 5 and 12, 2015, the Planning Commission conducted a public hearing to receive public testimony on the proposed regulations. Then on November 16 and 23, the Planning Commission deliberated on the proposed regulations. The Planning Commission voted 7-0 to forward a package of recommendations to regulate marijuana businesses in unincorporated Deschutes County. The recommended changes to the regulations include:

1. **Production**
Marijuana production (growing) to only be permitted in the EFU Zone on properties 20 acres or larger and in the Rural Industrial Zone.
2. **Processing**
No processing allowed in the MUA-10 zone.
3. **Retailing**
 - a. Marijuana retailing to be conditional use rather than outright permitted use in applicable zoning districts.
 - b. Prohibit retailing in the Deschutes Junction and Deschutes River Woods Store Rural Commercial Zones.
4. **Wholesaling**
Marijuana wholesaling is limited to office use only with no onsite storage of marijuana products.
5. **Setbacks**
Increase yard setback from 100 feet to 200 feet.
6. **Odor Control**
Add standards to odor control requiring the filtration system be maintained in working order and used and to allow for the use of alternative odor control systems other than carbon systems.
7. **Lighting Control**
Adopt lighting control standards but consider additional measures to control skyward lighting. No consensus on recommendation.
8. **Secure Storage**
Revise secure storage requirement to match OLCC requirement.
9. **Noise**
Move noise standards to DCC 8.08, Noise Control, and apply to all buildings and mechanical equipment outside of a commercial or industrial zone. Keep a reference to the DCC 8.08 in the marijuana-related regulations.
10. **Screening**
Only apply to existing medical marijuana operations, including buildings and greenhouses.

11. **Water**

Require proof from the watermaster that proposed water supply complies with all applicable local, state, and federal laws.

12. **Separation Distances**

Include parks and youth activity centers (i.e. Boys and Girls Club)

13. Remove standards that apply to RR-10, F-1, F-2, and MUA-10 because no marijuana uses are recommended to be allowed in these zones.

14. **Fire Protection**

Establish standalone requirement that all marijuana processing of cannabinoid extracts are only permitted on properties located in a fire protection district.

15. **Nonconforming Uses**

Minor correction to referenced sections.

16. **Minors**

Remove because ORS and OLCC Rules include this requirement.

17. **Limiting Type/Number of Licenses**

Consider limiting the number of production licenses 1 indoor and 1 outdoor for every 10 or 20 acres of parcel area. Renewal/Inspection: Consider requiring permit renewal (annual, biennial) or require site inspections as a conditional of approval.

18. **Inspections and Advisory committee**

County to conduct inspections of approved marijuana businesses in 1-2 years to determine compliance and learn what's working and what's not. Consider forming an advisory committee to facilitate collaboration amongst interested parties to evaluate effectiveness of regulations and recommend changes as needed.

The Commission also voted 5-2 to recommend the County not prohibit or "opt out" of any marijuana business type regulated by the State.

III. SCHEDULE

Following the work session on November 30, the public hearing before the Board is scheduled for December 2, 2015, with two sessions at 1:30pm and 6:00pm. Deliberations are scheduled for December 21, 2015.

Attachments: Planning Commission Recommendations:

- Summary of Zones Permitting Marijuana Related Businesses
- Summary of Standards for Marijuana Related Business
- Exhibits of Recommended Regulations

***** Denotes portions of this Section not amended by Ordinance 2015-022.

18.04.030. Definitions.

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

“Marijuana Processing” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

“Marijuana production” means the manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.”

“Marijuana retailing” means the sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission for recreational marijuana sales or registered with the Oregon Health Authority for medical marijuana sales.

“Marijuana wholesaling” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2015-022 §1, 2015 ;Ord. 2015-004 §1, 2015; Ord. 2014-009 §1, 2014; Ord. 2013-008 §1, 2013; Ord. 2012-007 §1, 2012; Ord. 2012-004 §1, 2012; Ord. 2011-009 §1, 2011; Ord. 2010-022 §1, 2010; Ord. 2010-018 §3, 2010; Ord. 2008-007 §1, 2008; Ord. 2008-015 §1, 2008; Ord. 2007-005 §1, 2007; Ord. 2007-020 §1, 2007; Ord. 2007-019 §1, 2007; Ord. 2006-008 §1, 2006; Ord. 2005-041 §1, 2005; Ord. Chapter 18.04 35 (04/2015) 2004-024 §1, 2004; Ord. 2004-001 §1, 2004; Ord. 2003-028 §1, 2003; Ord. 2001-048 §1, 2001; Ord. 2001-044 §2, 2001; Ord. 2001-037 §1, 2001; Ord. 2001-033 §2, 2001; Ord. 97-078 §5, 1997; Ord. 97-017 §1, 1997; Ord. 97-003 §1, 1997; Ord. 96-082 §1, 1996; Ord. 96-003 §2, 1996; Ord. 95-077 §2, 1995; Ord. 95-075 §1, 1975; Ord. 95-007 §1, 1995; Ord. 95-001 §1, 1995; Ord. 94-053 §1, 1994; Ord. 94-041 §§2 and 3, 1994; Ord. 94-038 §3, 1994; Ord. 94-008 §§1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§1, 2, and 3, 1994; Ord. 93-043 §§1, 1A and 1B, 1993; Ord. 93- 038 §1, 1993; Ord. 93-005 §§1 and 2, 1993; Ord. 93-002 §§1, 2 and 3, 1993; Ord. 92-066 §1, 1992; Ord. 92-065 §§1 and 2, 1992; Ord. 92-034 §1, 1992; Ord. 92-025 §1, 1992; Ord. 92-004 1 and 2, 1992; Ord. 91-038 §§3 and 4, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §1, 1991; Ord. 91-002 §11, 1991; Ord. 90-014 §2, 1990; Ord. 89-009 §2, 1989; Ord. 89-004 §1, 1989; Ord. 88- 050 §3, 1988; Ord. 88-030 §3, 1988; Ord. 88-009 §1, 1988; Ord. 87-015 §1, 1987; Ord. 86-056 2, 1986; Ord. 86-054 §1, 1986; Ord. 86-032 §1, 1986; Ord. 86-018 §1, 1986; Ord. 85-002 §2, 1985; Ord. 84-023 §1, 1984; Ord. 83-037 §2, 1983; Ord. 83-033 §1, 1983; Ord. 82-013 §1, 1982)

18.16.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Farm use as defined in DCC Title 18.
- B. Propagation or harvesting of a forest product.
- C. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- D. Accessory buildings customarily provided in conjunction with farm use.
- E. Climbing and passing lanes within the right of way existing as of July 1, 1987.
- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but 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 and highway detours that will be abandoned and restored to original condition or use when no longer needed.
- H. Minor betterment of existing public road and highway-related facilities such as maintenance yards, weigh stations and rest areas, within a right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
- I. Creation, restoration or enhancement of wetlands.
- J. A lawfully established dwelling may be altered, restored or replaced, subject to DCC 18.16.023.
 - 1. The replacement dwelling is subject to OAR 660-033-0130(30) and the County shall require as a condition of approval of a single-family replacement dwelling that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.
- K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480, and subject to 18.16.020(J)(1) above.
- L. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - 1. A public right of way;
 - 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - 3. The property to be served by the utility.
- N. The land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251.
- O. Fire service facilities providing rural fire protection services.
- P. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- Q. Outdoor mass gathering described in ORS 197.015(10)(d), and subject to DCC Chapter 8.16.

R. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract as allowed under OAR 660-033-0130(29).

S. Marijuana processing on parcels 20 acres and greater subject to the provisions of DCC 18.16.025(I) and 18.116.330.

T. Marijuana production on parcels 20 acres and greater subject to the provisions of DCC 18.116.330.
(Ord. 2015-022 §2, 2015; Ord. 2014-010 §1, 2014; Ord. 2012-007 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004; Ord. 2001-039 §1, 2001; Ord. 2001-016 §2, 2001; Ord. 98-030 §1, 1998; Ord. 95-007 §10, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 91-024 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §4, 1991; Ord. 91-002 §3, 1991; Ord. 86-007 §1, 1986; Ord. 81-025 §1, 1981; Ord. 81-001 §1, 1981)

“*****” Denotes portions of this Section not amended by Ordinance 2015-022.

18.65.020. RSC – Commercial/Mixed Use District (Brothers, Hampton, Millican, Whistlestop and Wildhunt).

- A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright, subject to applicable provisions of this chapter:
1. Single-family dwelling.
 2. Manufactured home, subject to DCC 18.116.070.
 3. Type 1 Home Occupation, subject to DCC 18.116.280.
 4. Residential home and residential facility.
 5. Two-family dwelling or duplex.
 6. Agricultural uses, as defined in Title 18, and excluding livestock feed lot or sales yard, and hog or mink farms.
 7. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
 8. Class III road and street project.
 9. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted, subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, and DCC 18.124, Site Plan Review, of this title:
1. Retail store, business office and/or commercial establishment in a building or buildings each not exceeding 4,000 square feet of floor space. The aggregate area for any one type of use that takes place in multiple buildings may not exceed 4,000 square feet.
 2. Residential use in conjunction with a permitted commercial use.
 3. Park or playground.
 4. Community building.
 5. Public or semipublic building or use.
 6. Highway maintenance facility.
 7. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
 8. Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
- C. Conditional Uses Permitted. The following uses and their accessory uses are permitted subject to applicable provisions of this chapter, DCC 18.116, Supplementary Provisions, DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Use, of this title:
1. Multi-family dwelling with three or more units.
 2. Church.
 3. School.
 4. Cemetery.
 5. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 6. Medical clinic or veterinary clinic.
 7. Community Center.
 8. Manufactured home park.
 9. Recreational vehicle or trailer park.
 10. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A).
 11. Marijuana retailing subject to the provisions of DCC 18.116.330.
- D. Yard and Setback Requirements.
1. The front yard setback shall be a minimum of 20 feet from a property line fronting on a local street right of way and 50 feet from an arterial right of way.

2. The minimum side yard setback shall be 10 feet.
3. The minimum rear yard setback shall be 20 feet.
4. The minimum side and rear yard setbacks for property that is adjacent to land zoned exclusive farm use shall be 50 feet.

E. Lot Requirements.

1. Residential Uses:

- a. The minimum lot size for residential uses in Brothers, Hampton and Millican is 2.5 acres.
- b. Each lot shall have a minimum width of 200 feet.
- c. Each lot must be served by an on-site well.
- d. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to final approval of a subdivision or partition.
- e. Lot coverage for a dwelling and accessory buildings used primarily for residential purposes shall not exceed twenty-five (25) percent of the total lot area. Lot coverage for buildings used primarily for commercial purposes shall be determined by spatial requirements for sewage disposal, landscaping, parking, yard setbacks and any other elements under site plan review.

2. Commercial and Public Uses.

- a. The minimum lot size in Brothers, Hampton, Millican, Whistlestop and Wildhunt for a commercial use served by an on-site septic system and individual well shall be the size necessary to accommodate the use.
- b. In Alfalfa, the minimum lot size shall be the size necessary to accommodate the use, but not less than one acre.
- c. Each lot shall have a minimum width of 150 feet.
- d. On-site sewage disposal. For new lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to final approval of a subdivision or partition.

(Ord. 2015-022 §8, 2015; Ord. 2015-004 §2, 2015; Ord. 2004-002 §11, 2004; Ord. 2002-028 §1, 2002; Ord. 2002-002 §2, 2002)

18.66.040. Commercial (TeC) District.

The Terrebonne Commercial District is intended to allow a range of commercial and limited industrial uses to serve the community and surrounding rural area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review:
1. Single-family dwelling or two-family on a lot or parcel existing on June 4, 1997.
 2. Manufactured home on a lot or parcel existing on June 4, 1997, subject to DCC 18.116.070.
 3. Type 1 Home Occupation, subject to DCC 18.116.280.
 4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
 5. Class III road or street project.
 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116 and 18.1248:
1. A building or buildings not exceeding 4,000 square feet of floor space to be used by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating or drinking establishment.
 - c. Offices.
 - d. Veterinary clinic and kennel entirely within an enclosed building.
 - e. Residential use in the same building as a use permitted by DCC 18.66.040(B)(1).
 - f. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
 2. Any of the uses allowed under DCC 18.66.040 proposing to occupy more than 4,000 square feet of floor area in a building or buildings, subject to provisions of DCC 18.66.040(E).
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:
1. Motel, with a maximum of 35 units, only if served by a community sewer system as defined in OAR 660-22-010(2).
 2. Recreational vehicle park.
 3. Church.
 4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 5. Public or private school.
 6. Child care center.
 7. Park.
 8. Public or semi-public building.
 9. Medical center in a building or buildings not exceeding 4,000 square feet of floor space.
 10. Utility facility.
 11. Water supply or treatment facility.
 12. Vehicle and trailer sales, service, repair or rental in a building or buildings not exceeding 4,000 square feet of floor space.
 13. Uses listed below carried on in a building or buildings not exceeding 4,000 square feet of floor space with no exterior displays or storage of industrial equipment, industrial vehicles or industrial products:
 - a. Manufacturing and production.
 - b. Wholesale sales.
 - c. Mini-storage.
 12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

15. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
 16. Marijuana processing subject to the provisions of DCC 18.116.330.
 17. Marijuana retailing subject to the provisions of DCC 18.116.330.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.66.040(B) and (C).
1. Sewer and Water Requirements. Applicant must obtain approval for an on-site sewage disposal system, or if applicable, obtain a Department of Environmental Quality (DEQ) Waste Water Pollution Control Facility (WPCF) permit before approval or as condition of approval of the land use permit.
 2. The County shall notify the Terrebonne Domestic Water District of land use actions made under DCC 18.66.
- E. Requirements for Large Scale Uses.
1. All uses listed in DCC 18.66.040(B) and 18.66.040(C)(9) may have a total building floor area exceeding 4,000 square feet if the Planning Director or Hearings Body finds:
 - a. The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
 - b. The use will primarily employ a work force from the community and surrounding rural area; and
 - c. It is not practical to locate the use in a building or buildings with floor area of 4,000 square feet or less.
 2. For purposes of DCC 18.66.040, the surrounding rural area includes the area described by the Terrebonne zip code, which extends south to the boundary of the Redmond zip code, west to the boundary of the Sisters zip code, east into Crook County to the boundary of the Prineville zip code and north into Jefferson County to include Crooked River Ranch.
- F. Design Standards.
- Ground Floor Windows. The following criteria for ground floor windows apply to all new commercial buildings in the TeC District except those containing uses listed in DCC 18.66.040(C)(13). The provisions of DCC 18.124 also apply.
1. The window area shall equal at least 50 percent of the length and 25 percent of the height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls that abut sidewalks or roads.
 2. Required window areas shall be windows that allow views into either working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. Minimum size requirements for this district will be determined by spatial requirements for on-site sewage disposal, required landscaped areas and off-street parking. No lot or parcel shall be created of less than a minimum of 10,000 square feet.
- H. Dimensional Standards.
- Lot Coverage. No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.
- I. Yard Standards.
1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070(D)(3).
The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
 2. Side Yard. No requirement, subject to DCC 18.66.040(I)(4).
 3. Rear Yard. No specific requirements, subject to DCC 18.66.040(I)(4).
 4. Exceptions to Yard Standards.
 - a. Lot line adjacent to a residential district. Any new structure requiring a building permit sited on a lot adjacent to a residential district shall be set back a minimum of 15 feet from the common property line. The required yard shall be increased by one foot for each foot by which the building height exceeds 20 feet.

- b. Lot line adjacent to an EFU zone. Any new structure requiring a building permit on a lot or parcel adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.

(Ord. 2015-022 §9, 2015; Ord. 2015-004 §3, 2015; Ord. 2004-002 §15, 2004; Ord. 97-063 §3, 1997; Ord. 97-003 §2, 1997)

18.66.050. Commercial-Rural (TeCR) District.

The Terrebonne Commercial-Rural District allows a mix of commercial and industrial uses common to a farming community.

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

1. Single-family dwelling on a lot or parcel existing on June 4, 1997.
2. Manufactured home on a lot or parcel existing on June 4, 1997, subject to DCC 18.116.070.
3. Type 1 Home Occupation, subject to DCC 18.116.280.
4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.66.070 and 18.116.230.
5. Class III road or street project.
6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116 and 18.124:

1. A building or buildings not exceeding 4,000 square feet of floor space to be occupied by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating or drinking establishment.
 - c. Office.
 - d. Residential use in the same building as a use listed in DCC 18.66.050.
 - e. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
2. Any of the uses listed under DCC 18.66.050(B) proposing to occupy more than 4,000 square feet of floor area in a building or buildings, subject to provisions of DCC 18.66.050(E).

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.66, 18.116, 18.124 and 18.128:

1. Church.
2. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
3. Park.
4. Public or semi-public building.
5. Utility facility.
6. Water supply or treatment facility.
7. Vehicle and trailer sales, service, repair and rental in a building or buildings not exceeding 4,000 square feet of floor area.
8. Uses listed below carried on in a building or buildings not exceeding 10,000 square feet of floor space to be occupied by any combination of the following uses:
 - a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Mini-storage.
 - d. Truck terminal.
 - e. Farm or contractor equipment storage, sales, service or repair.
 - f. Uses that require proximity to rural resources, as defined in OAR 660-04-022- (3)(a).

9. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

10. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

11. Marijuana processing subject to the provisions of DCC 18.116.330.

12. Marijuana retailing subject to the provisions of DCC 18.116.330.

D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.66.050(B) and (C).

1. Sewer and Water Requirements.

a. Applicant must obtain approval for an on-site sewage disposal system, or if applicable, obtain a Department of Environmental Quality (DEQ) Waste Water Pollution Control Facility (WPCF) permit before approval or as condition of approval of the land use permit.

b. The County shall notify the Terrebonne Domestic Water District of land use actions made under DCC 18.66.

2. Compatibility.

a. Any use on a lot adjacent to a residential district shall not emit odor, dust, fumes, glare, flashing lights, noise, or similar disturbances perceptible without instruments more than 200 feet in the direction of the affected residential lot.

b. Any use expected to generate more than 50 truck-trailer, contractors and/or farm heavy equipment trips per day to and from the subject property shall not locate on a lot or parcel adjacent to or across a local or collector road from a lot or parcel in a residential district.

c. No use shall be permitted that has been declared a nuisance by state statute, County ordinance or a court of competent jurisdiction.

d. No use requiring an air containment discharge permit shall be approved by the Planning Director or Hearings Body before review by the applicable state or federal permit-reviewing authority. Such uses shall not be located adjacent to or across a local or collector road from a lot or parcel in a residential district.

3. Traffic and Parking.

a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity and level of service of the affected transportation facility.

b. All parking demand generated by uses permitted by DCC 18.66 shall be accommodated entirely on the premises.

c. Site design shall not require backing of traffic onto a public or private road right-of-way.

4. Additional Requirements. As a condition of approval of any use proposed, the Planning Director or Hearings Body may require:

a. An increased setback requirement.

b. Additional off-street parking and loading facilities.

c. Limitations on signs, lighting, hours of operation and points of ingress and egress.

d. Additional landscaped buffering and screening improvements.

E. Requirements for Large Scale Uses.

1. All uses listed in DCC 18.66.050(B) may be allowed to occupy a total floor area exceeding 4,000 square feet if the Planning Director or Hearings Body finds:

a. The use is intended to serve the community and surrounding rural area or the traveling needs of people passing through the area;

b. The use will primarily employ a work force from the community and surrounding rural area; and

c. It is not practical to contain the proposed use within 4,000 square feet of floor area.

2. This provision does not apply to uses listed in DCC 18.66.050(C)(8).

3. For purposes of DCC 18.66.050(E), the surrounding rural area described by the Terrebonne zip code, which extends south to the boundary of the Redmond zip code, west to the boundary of the Sisters zip code, east

into Crook County to the boundary of the Prineville zip code and north into Jefferson County to include Crooked River Ranch.

- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to all new commercial buildings in the TeCR District except those containing uses listed in DCC 18.66.050(C)(8). The provisions of DCC 18.124 also apply.
1. The window area shall be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls that abut sidewalks or roads.
 2. Required window areas shall be windows that allow views into either working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. No lot shall be created less than a minimum of 10,000 square feet. Lot requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas and off-street parking.
- H. Dimensional Standards.
1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.
 2. No use listed in DCC 18.66.050(C)(8) that is located adjacent to or across a local or collector road from a lot or parcel in a residential district shall exceed 70 percent lot coverage by all buildings, outside storage or off-street parking and loading areas.
- I. Yard Standards.
1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070(D)(3)(b).
The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.
 2. Side Yard. No requirement, subject to DCC 18.66.050(I)(4).
 3. Rear Yard. No specific requirement, subject to DCC 18.66.050(I)(4).
 4. Exceptions to Yard Standards.
 - a. Lot line adjacent to a residential zone. For all new structures requiring a building permit on a lot adjacent to a residential district, the setback shall be a minimum of 15 feet. The required yard will be increased by one foot for each foot by which the building height exceeds 20 feet.
 - b. Lot line adjacent to an EFU zone. Any structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use, shall be set back a minimum of 100 feet from the common property line.

(Ord. 2015-022 §9, 2015; Ord. 2015-004 §4, 2015; Ord. 2004-002 §16, 2004; Ord. 2001-039 §7, 2001; Ord. 2001-016 §2, 2001; Ord. 97-003 §2, 1997)

“*****” Denotes portions of this Section not amended by Ordinance 2015-022.

18.67.040. Commercial (TuC) District.

The Tumalo Commercial District is intended to allow a range of limited commercial and industrial uses to serve the community and surrounding area.

- A. Permitted Uses. The following uses and their accessory uses are permitted outright and do not require site plan review.
1. Single-family dwelling or duplex.
 2. Manufactured home subject to DCC 18.116.070.
 3. Type I Home Occupation, subject to DCC 18.116.280.
 4. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.060 and 18.116.230.
 5. Class III road or street project.
 6. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.67, 18.116 and 18.124:
1. A building or buildings, none of which exceeds 4,000 square feet of floor space to be used by any combination of the following uses:
 - a. Retail or service business.
 - b. Eating and/or drinking establishment.
 - c. Offices.
 - d. Residential use in the same building as a use permitted in DCC 18.67.040.
 - e. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
 2. Any of the uses listed under DCC 18.67.040 proposing to occupy more than 4,000 square feet of floor area in a building subject to the provisions of DCC 18.67.040(E).
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
1. Church.
 2. Bed and breakfast inn.
 3. Child care center.
 4. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 5. Park.
 6. Public or semi-public building.
 7. Utility facility.
 8. Water supply or treatment facility.
 9. Manufactured home/RV park on a parcel in use as a manufactured home park or recreational vehicle park prior to the adoption of PL-15 in 1979 and being operated as of June 12, 1996 as a manufactured home park or recreational vehicle park, including any expansion of such uses on the same parcel as configured on June 12, 1996.
 10. The following uses and their accessory uses may be conducted in a building or buildings not to exceed 4,000 square feet of floor space.
 - a. Farm equipment, sales, service or repair.
 - b. Trailer sales, service or repair.
 - c. Vehicle service or repair.
 - d. Veterinary clinic.
 11. The following uses may be conducted in a building or buildings not to exceed 10,000 square feet of floor space:

- a. Manufacturing or production.
 - b. Wholesale sales.
 - c. Marijuana processing subject to the provisions of DCC 18.116.330.
 - d. Marijuana retailing subject to the provisions of DCC 18.116.330.
- 12. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
- 13. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- D. Use Limitations. The following use limitations shall apply to the uses listed in DCC 18.67.040(C)(11).
 - 1. Compatibility.
 - a. Any use expected to generate more than 50 truck-trailer and/or heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot or parcel adjacent to or across a local or collector street from a lot or parcel in a residential district.
 - 2. Traffic and Parking.
 - a. A use that generates more than 20 auto or truck trips during the peak hour of the day to and from the premises shall document with facts that the affected transportation facilities are adequate to serve the proposed use, considering the functional classification, capacity and level of service of the affected transportation facility.
 - b. All parking demand generated by uses permitted by DCC 18.67 shall be accommodated entirely on the premises.
- E. Requirements for Large Scale Uses.
 - 1. All uses listed in DCC 18.67.040(B) may have a total floor area exceeding 4,000 square feet but not greater than 10,000 square feet if the Planning Director or Hearings Body finds:
 - a. The use is intended to serve the community and surrounding rural area or the traveling needs of people passing through the area;
 - b. The use will primarily employ a work force from the community and surrounding rural area; and
 - c. It is not practical to contain the proposed use within 4,000 square feet of the floor area.
 - 2. This provision does not apply to uses listed in DCC 18.67.040(C)(10).
 - 3. For the purposes of DCC 18.67.040, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.
- F. Design Standards. Ground Floor Windows. The following criteria for ground floor windows apply to new buildings in the TuC district except those uses listed in DCC 18.67.040(C)(10) and any residential use. The provisions of DCC 18.124 also apply.
 - 1. The windows must be at least 50 percent of the length of the ground level wall area and 25 percent of height of the ground level wall area. Ground level wall area includes all exterior wall area up to nine feet above the finished grade. The window requirement applies to the ground level of exterior building walls which abut sidewalks or streets.
 - 2. Required window areas shall be either windows that allow views into working areas, lobbies, pedestrian entrances or display windows.
- G. Lot Requirements. No lot shall be created having less than a minimum of 10,000 square feet. Lot requirements for this district shall be determined by spatial requirements for sewage disposal, required landscaped areas and off-street parking.
- H. Dimensional Standards.
 - 1. Lot Coverage: No lot coverage requirements, provided spatial requirements for parking, sewage disposal and landscaping are satisfied.

2. No use listed in DCC 18.67.040(C)(10) that is located adjacent to or across a local or collector from a lot or parcel in a residential district shall exceed 70 percent lot coverage by all buildings, outside storage, or off-street parking and loading areas.

I. Yard Standards.

1. Front Yard. The front yard shall be a maximum of 15 feet, except as otherwise allowed by DCC 18.124.070 (D)(3).

The street setback for buildings may be reduced, but not increased, to the average building setback distance of existing buildings on adjoining lots.

2. Side Yard. No requirement, subject to DCC 18.67.040(I)(4).
3. Rear Yard. No specific requirement, subject to DCC 18.67.040 (I)(4).
4. Exceptions to Yard Standards.

- a. Lot line adjacent to a residential zone.

For all new structures or substantial alteration of a structure requiring a building permit on a lot adjacent to a residential district, the setback shall be a minimum of 15 feet. The required yard will be increased by one foot for each foot by which the building height exceeds 20 feet.

- b. Lot line adjacent to an EFU zone. Any structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.

(Ord. 2015-022 §10, 2015; Ord. 2015-004 §5, 2015; Ord. 2004-013 §7, 2004; Ord. 2004-002 §19, 2004; Ord. 2001-039 §8, 2001; Ord. 2001-016 §2, 2001; Ord. 2000-033 §11, 2000; Ord. 97-063 §3, 1997; Ord. 97-033 §2, 1997)

18.67.060. Industrial (TuI) District.

The purpose of the Industrial District is to allow a limited range of industrial uses to serve the community and the surrounding area.

A. Uses permitted outright. The following uses and their accessory uses are permitted outright:

1. Industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
2. Office buildings associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
3. Restaurants and cafeteria facilities associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
4. Residence for caretaker or night watchman on property with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
5. Equipment storage associated with industrial uses in existence on the date of adoption of the Unincorporated Communities rule, OAR 660-022 (October 28, 1994);
6. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards of DCC 18.67.080 and 18.116.230.
7. Class III road or street project.
8. Operation, maintenance, and piping of existing irrigation systems operated by-an Irrigation District except as provided in DCC 18.120.050.

B. Uses Permitted, Subject to Site Plan Review. The following uses and their accessory uses are permitted in a building or buildings not to exceed 40,000 square feet of floor area, subject to the applicable provisions of DCC 18.67, 18.116, and 18.124.

1. Expansion or replacement of uses allowed under DCC 18.67.060(A);
2. Office buildings associated with industrial uses;
3. Restaurant and cafeteria facilities associated with industrial uses;
4. Residence for caretaker or night watchman on property with industrial uses;

5. Equipment storage associated with industrial uses;
 6. Primary processing, packaging, treatment, bulk storage and distribution of the following products:
 - a. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.
 - b. Ornamental horticultural products and nurseries.
 - c. Softwood and hardwood products excluding pulp and paper manufacturing.
 - d. Sand, gravel, clay and other mineral products.
 7. Freight depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck;
 8. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc.;
 9. Welding, sheet metal, or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by site-obscuring fencing.
 10. Mini-storage facility.
 11. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities;
 12. Any industrial use proposing to occupy more than 40,000 square feet of floor area in a building or buildings is subject to the provisions of DCC 18.67.060(C) and (D).
 13. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana processing of cannabinoid concentrates and cannabinoid products not including processing of cannabinoid extracts subject to the provisions of DCC 18.116.330.
- C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of DCC 18.116, 18.124, and 18.128:
1. Any use permitted by DCC 18.67.060(B) which will exceed 40,000 square feet of floor area;
 2. Concrete or ready mix plant;
 3. Stockpiling, storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete;
 4. Buildings, structures, apparatus, equipment and appurtenances necessary for the above uses to be carried on.
 5. Marijuana processing subject to the provisions of DCC 18.116.330.
 6. Marijuana retailing subject to the provisions of DCC 18.116.330.
- D. Use limitations. The following limitations and standards shall apply to all permitted uses:
1. A new industrial use may occupy more than 40,000 square feet of floor area in a building or buildings provided an analysis set forth in the comprehensive plan demonstrates and land use regulations ensure:
 - a. The use will primarily employ a work force from the community and surrounding rural area and will not rely upon a work force served by uses within urban growth boundaries. The determination of the work force of the community shall consider the total industrial employment in the community and surrounding rural area and be coordinated with employment projections for nearby urban growth boundaries; and
 - b. It is not practical to contain the proposed use within 40,000 square feet of the floor area.
 2. For the purposes of DCC 18.67.060, the surrounding rural area is described as the following: extending north to the Township boundary between Townships 15 and 16; extending west to the boundary of the public lands managed by the U.S. Forest Service in T16S-R11E; extending south to the south section lines of T17S-R12E sections 4,5,6 and T17S-R11E sections 1,2,3; and extending east to Highway 97.
- E. Dimensional standards. In the Industrial Zone, the following dimensional standards shall apply:
1. The minimum lot size shall be determined subject to the provisions of DCC 18.67.060 relative to setback requirements, off-street parking and loading, and as deemed necessary by the Planning

Director or Hearings Body, to maintain air, water and land resource quality and to protect adjoining and area land uses.

2. The minimum building setback between a structure and a street, road or railroad right-of-way line shall be 25 feet unless a greater setback is required for compliance with Comprehensive Plan policies.
 3. The minimum setback between a structure and a property line adjoining a residential lot or use in a platted subdivision or residential zone shall be 50 feet.
 4. The minimum setback between a structure and an existing use shall be three feet from the property line and six feet from a structure on the adjoining property.
 5. The maximum building height shall be 45 feet on any lot adjacent to a residential use or lot in a platted subdivision or residential zone.
 6. The minimum lot frontage shall be 50 feet.
 7. Exception to Yard Standards. Any new structure requiring a building permit on a lot adjacent to EFU-zoned land that is receiving special assessment for farm use shall be set back a minimum of 100 feet from the common property line.
- F. Industrial Site design. The site design of any permitted use shall make the most effective use reasonably possible of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and other views from public ways and neighboring residential uses and to minimize intrusion into the character of existing developments in the immediate vicinity of the proposed use.
- G. Design and use criteria. In the consideration of an application for a new industrial use, the Planning Director or Hearings Body shall take into account the impact of the proposed use on nearby residential and commercial uses, on resource carrying capacities and on the capacity of transportation and other public facilities and services. In approving a proposed use, the Planning Director or Hearings Body shall find that:
1. The new use is in compliance with the Comprehensive Plan.
 2. The new use is in compliance with the intent and provisions of DCC Title 18.
 3. That any adverse social, economical, physical or environmental impacts are minimized.
- H. Additional requirements. As a condition of approval, the Planning Director or Hearings Body may require:
1. An increase in required setbacks.
 2. Additional off-street parking and loading facilities.
 3. Limitations on signs or lighting, hours of operation, and points of ingress and egress.
 4. Additional landscaping, screening and other improvements.
 5. Any other conditions considered necessary to achieve compliance with the intent and purposes of DCC Title 18 and policies of the Comprehensive Plan.
- I. For purposes of this chapter, a new industrial use does not include industrial uses in existence on the date of Ord. 2005-16. Unless expanded or altered, industrial uses in existence on the date of adoption of the TUI District are not subject to the requirements of 18.67.060(B) or 18.67.060(C).

(Ord. 2015-022 §10, 2015; Ord. 2015-004 §6, 2015; Ord. 2005-016 §2, 2005

18.74.020. Uses Permitted – Deschutes Junction and Deschutes River Woods Store.

B. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.128:

1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses.
 - a. Restaurant, café or delicatessen.
 - b. Grocery store.
 - c. Tavern.
 - d. Retail sporting goods and guide services.
 - e. Barber and beauty shop.
 - f. General store.
 - g. Video store.
 - h. Antique, art, craft, novelty and second hand sales if conducted completely within an enclosed building.
 - i. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
2. Expansion of a nonconforming use listed under section B(1)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
 - a. Retail sales of agricultural or farm products.
 - b. Farm machinery sales and repair.
 - c. Kennel.
 - d. Veterinary clinic.
 - e. Automobile service station and repair garage, towing service, fuel storage and sales.
 - f. Public or semi-public use.
 - g. Residential use in the same building as a use permitted by this chapter.
 - h. Park or playground.
4. Expansion of a nonconforming use listed under section B(3)(a-h), existing as of 11/05/2002, the date this chapter was adopted, shall be limited to 3,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.

C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:

1. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses.
 - a. Type 2 or Type 3 Home Occupation, subject to DCC 18.116.280.
 - b. Utility facility.
 - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - d. Child care center.
 - e. Church.
 - f. School.
2. Recreational vehicle park
3. Mini-storage facilities limited to 35,000 square feet in size.
4. Marijuana retailing subject to the provisions of DCC 18.116.330.

(Ord. 2015-022 §11, 2015; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2004-002 §20, 2004; Ord. 2002-019 §2, 2002)

18.74.025. Uses Permitted – Spring River.

A. Uses Permitted subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.124:

1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses:
 - a. Fishing supplies and equipment.
 - b. Snowmobiling accessories.
 - c. Marine accessories.
 - d. General store.
 - e. Hardware store.
 - f. Convenience store with gas pumps.
 - g. Fast food restaurant, cafe, or coffee shop.
 - h. Recreational rental equipment store.
 - i. Excavation business.
 - j. Landscaping business/service.
 - k. Health care service.
 - l. Beauty shop.
 - m. Video store.
 - o. Post office.
 - p. Party supply.
 - q. Equipment sales and rental.
 - r. Appliance store.
 - s. Bank.
 - t. Exterminator.
 - u. Private mailing and packaging store.
 - v. Bakery.
 - ~~w. Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
2. Expansion of a nonconforming use listed in section A(1)(a-v), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
3. A building or buildings not exceeding 3,500 square feet of floor space to be used by any combination of the following uses:
 - a. Pet and livestock supply.
 - b. Farm machinery sales and repair.
4. Expansion of a nonconforming use listed in section A(3)(a-b), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 3,500 square feet of floor space or 25 percent of the size of the building as of said date, whichever is greater.
- B. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:
 1. A building or buildings not exceeding 2,500 square feet of floor space to be used by any combination of the following uses:
 - a. Full service gas station with automobile repair services.
 - b. Welding shop.
 - c. Mini-storage units
 - d. Marijuana retailing subject to the provisions of DCC 18.116.330.
 2. Expansion of a nonconforming use listed in section B(1)(a-c), existing as of 11/05/02, the date this chapter was adopted, shall be limited to 2,500 square feet or 25 percent of the size of the building as of said date, whichever is greater.
- C. Definitions. For the purposes of DCC 18. 74.120, the following definitions shall apply:
 1. Landscaping business/service: Includes designing landscapes, site grading and preparation, placing boulders, planting trees and shrubbery, installing sod, installing irrigation systems and equipment, installing fencing, and landscape maintenance, but does not include on-site cultivation of plants or plant materials or any on-site retail sales.

2. Health care service: A business providing the diagnosis, treatment and care of physical and/or mental disease, injury and/or disability, but not including a hospital facility or a nursing home as defined in DCC 18.04.
3. Beauty Shop: A full service beauty salon which would include haircuts, permanents, washes, nails, etc., and the retail sales of incidental beauty supplies typical of any beauty salon.
4. Mini-storage units: Self service mini-storage units of various sizes from 5' x 10' up to 12' x 24'.
5. Video store: The sale and rental of videotapes, compact disc movies and audio books.
6. Laundry and dry cleaners: Dry cleaners, shirt laundry and laundromat with self-service washers and dryers along with the sale of detergents, bleaches, etc.
7. Post office: United States Postal Service office including mail pick-up and distribution.
8. Party supply: The sale and rental of party supplies such as balloons, streamers, costumes, dishes, linens and silverware.
9. Equipment sales and rental: The rental of construction, home repair and maintenance equipment such as ladders, mowers, saws, gardening supplies, etc., and the sales of related equipment.
10. Appliance store: The sale and service of household appliances such as televisions, ranges, refrigerators, etc.
11. Bank: Full service consumer bank for checking, savings, loans, safety deposit boxes, etc.
12. Exterminator: Exterminator of insects and other pests such as rodents, spiders, etc.
13. Private mailing and packaging store: Private mail boxes and packaging services, which would include the holding and distribution of mail, packing, mailing supplies, FEDEX and UPS pick-up, and FAX and copy machine availability.
14. Bakery: The manufacture and sale of bread, donuts and pastries.
15. Pet and livestock supplies: The sale of pet supplies such as dog and cat food, collars, grooming needs, shelters and some large animal supplies such as hay, feeds and grains.

(Ord. 2015-022 §11, 2015; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2006-008 §7, 2006; Ord. 2002-019 §2, 2002; Ord. 97-015 §1, 1997; Ord. 96-046 §1, 1996; Ord. 96-023 §1, 1996)

Section 18.74.027. Uses Permitted – Pine Forest and Rosland.

- A. Uses Permitted Outright. Any use listed as a use permitted outright by DCC 18.74.020(A).
- B. Uses Permitted subject to Site Plan Review. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116 and 18.124:
 1. A building or buildings each not exceeding 2,500 square feet of floor space to be used by any combination of the following uses that serve the surrounding rural area or the travel needs of persons passing through the area:
 - a. Eating and drinking establishments.
 - b. Retail store, office and service establishments.
 - c. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana wholesaling, office only with no storage of marijuana products, subject to the provisions of DCC 18.116.330.
 2. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 2,500 square feet or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.
 3. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any combination of the following uses:
 - a. Sales of agricultural or farm products.
 - b. Farm machinery sales and repair.
 - c. Kennel or veterinary clinic.
 - d. Automobile service station, repair garage, towing service, fuel storage and fuel sales.
 - e. Public or semi-public use.
 - f. Residential use in the same building as a use permitted in this chapter.

- g. Park or playground.
 - 4. Expansion of a nonconforming use existing as of 11/05/2002 shall be limited to 3,500 square feet each or 25 percent of the size of the building (or portion of the building) housing the nonconforming use as of said date, whichever is greater.
 - C. Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:
 - 1. A building or buildings each not exceeding 3,500 square feet of floor space to be used by any of the following uses:
 - a. Home occupation as defined in DCC 18.04.
 - b. Utility facility.
 - c. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - d. Child care center.
 - e. Church.
 - f. School.
 - g. Marijuana retailing subject to the provisions of DCC 18.116.330.
 - 2. Recreational vehicle park.
 - 3. Mini-storage facilities limited to 35,000 square feet in size.
- (Ord. 2015-022 §11, 2015; Ord. 2015-004 §7, 2015; Ord. 2008-008 §1, 2008; Ord. 2007-007 §1, 2007; Ord. 2003-080, §1, 2003)

18.100.010. Uses Permitted Outright.

In an R-I Zone, the following uses and their accessory uses are permitted outright except as limited by DCC 18.100.040, and unless located within 600 feet from a residential dwelling, a lot within a platted subdivision or a residential zone.

- A. Farming or forest use.
- B. Primary processing, packaging, treatment, bulk storage and distribution of the following products:
 - 1. Agricultural products, including foodstuffs, animal and fish products, and animal feeds.
 - 2. Ornamental horticultural products and nurseries.
 - 3. Softwood and hardwood products excluding pulp and paper manufacturing.
 - 4. Sand, gravel, clay and other mineral products.
- C. Residence for caretaker or night watchman on property.
- D. Freight Depot, including the loading, unloading, storage and distribution of goods and materials by railcar or truck.
- E. Contractor's or building materials business and other construction-related business including plumbing, electrical, roof, siding, etc., provided such use is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight-obscuring fencing.
- F. Ice or cold storage plant.
- G. Wholesale distribution outlet including warehousing, but excluding open outside storage.
- H. Welding, sheet metal or machine shop provided such is wholly enclosed within a building or all outside storage is enclosed by sight-obscuring fencing.
- I. Kennel or a Veterinary clinic.
- J. Lumber manufacturing and wood processing except pulp and paper manufacturing.
- K. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- L. Class III road or street project.
- M. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- N. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary:~~
Marijuana processing of cannabinoid concentrates and cannabinoid products not including processing of cannabinoid extracts subject to the provisions of DCC 18.116.330.
(Ord. 2015-022 §12, 2015; Ord. 2015-004 §8, 2015; Ord. 2002-126, §1, 2002; Ord. 2001-039 §12, 2001; Ord. 2001-016 §2, 2001; Ord. 93-043 §16, 1993; Ord. 91-038 §1, 1991)

18.100.020. Conditional Uses.

The following uses may be allowed subject to DCC 18.128:

- A. Any use permitted by DCC 18.100.010, which is located within 600 feet of a residential dwelling, a lot within a platted subdivision or a residential zone.
- B. Any use permitted by DCC 18.100.010, which involves open storage.
- C. Concrete or ready-mix plant.
- D. Petroleum products storage and distribution.
- E. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or Portland Cement Concrete.
- F. Commercial feedlot, stockyard, sales yard, slaughterhouse and rendering plant.
- G. Railroad trackage and related facilities.
- H. Pulp and paper manufacturing.
- I. Any use permitted by DCC 18.100.020010, which is expected to exceed the following standards:
 - 1. Lot coverage in excess of 70 percent.
 - 2. Generation of any odor, dust, fumes, glare, flashing lights or noise that is perceptible without instruments 500 feet from the property line of the subject use.

- J. Manufacture, repair or storage of articles manufactured from bone, cellophane, cloth, cork, feathers, felt, fiber, glass, stone, paper, plastic, precious or semiprecious stones or metal, wax, wire, wood, rubber, yarn or similar materials, provided such uses do not create a disturbance because of odor, noise, dust, smoke, gas, traffic or other factors.
 - K. Processing, packaging and storage of food and beverages including those requiring distillation and fermentation.
 - L. Public Landfill Transfer Station, including recycling and other related activities.
 - M. Mini-storage facility.
 - N. Automotive wrecking yard totally enclosed by a sight-obscuring fence.
 - O. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).
 - P. Utility facility.
 - Q. Manufacturing, storage, sales, rental, repair and servicing of equipment and materials associated with farm and forest uses, logging, road maintenance, mineral extraction, construction or similar rural activities.
 - R. Electrical substations.
 - S. Marijuana retailing subject to the provisions of DCC 18.116.330.
 - T. Marijuana processing of cannabinoid extracts subject to the provisions of DCC 18.116.330
 - U. Marijuana production subject to the provisions of DCC 18.116.330.
- (Ord. 2015-0022 §12, 2015; Ord. 2004-013, §10, 2004; Ord. 2002-126, §1, 2002; Ord. 2001-039 §12, 2001; Ord. 2001-016 §2, 2001; Ord. 97-063 §3, 1997; Ord. 91-038 §1, 1991; Ord. 91-020 §1, 1991; Ord. 90-014 §38, 1990; Ord. 86-018 §15, 1986)

18.108.050. Commercial - C District.

- A. Uses Permitted Outright. Any combination of the following uses and their accessory uses are permitted outright in the C district.
1. Recreational path.
 2. Ambulance service.
 3. Library.
 4. Church.
 5. Bus stop.
 6. Community center.
 7. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 - a. Retail/rental store, office and service establishment.
 - b. Art galleries
 - c. Dry cleaner and/or self-service laundry establishment.
 - d. Radio and television sales and service.
 - e. Radio and television broadcasting studios and facilities, except towers.
 - f. Restaurant, bar and cocktail lounge, including entertainment.
 - g. Automobile service station.
 - h. Technical and business school.
 - i. Catering establishment.
 - j. Crafts in conjunction with retail sales (occurring on premises, such as stained glass/pottery, etc.).
 - k. Medical and dental clinic, office and laboratory.
 - l. Theater not exceeding 4,000 square feet of floor area.
 - ~~m. Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
 - n. Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
 8. Multiple-family residential dwelling units, subject to the provisions of DCC 18.108.050(C)(1).
 9. Residential dwelling units constructed in the same building as a commercial use, subject to the provisions of DCC 18.108.050(C)(2).
 10. Post Office.
 11. Administrative and office facility associated with a community association or community use.
 12. Police facility.
- B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit.
1. Public buildings and public utility buildings and structures.
 2. Club, lodge or fraternal organization.
 3. Commercial off-street parking lot.
 4. Bus passenger station.
 5. Interval ownership and/or time-share unit or the creation thereof.
 6. Miniature golf.
 7. Bed and breakfast inn.
 8. Inn.
 9. Residential facility.
 10. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 - a. Bowling alley.
 - b. Car wash.
 - c. Dancing or music school, nursery school, kindergarten and day-care facility.
 - d. Theater exceeding 4,000 square feet in floor area.

- e. Veterinary clinic or kennel operated entirely within an enclosed building.
- f. Automotive repair and maintenance garage, or tire store, provided the business is wholly conducted within an enclosed building.
- g. Marijuana retailing subject to the provisions of DCC 18.116.330.

C. Use Limits.

1. Multiple-family residential dwelling units, allowed on the nine acres vacant as of December 31, 1997 in the C District, shall be subject to the provisions of DCC 18.108.040(C) and (D), and the following requirements:
 - a. No dwelling unit shall have more than three bedrooms.
 - b. Individual dwelling units shall not exceed 2,250 square feet of habitable floor area.
 - c. One off-street parking space shall be provided for each bedroom within each dwelling unit, with a maximum of two spaces allowed per dwelling unit.
2. Residential dwelling units constructed in the same building as a commercial use developed in the C district shall be subject to the following requirements:
 - a. Residential dwelling units shall be developed above first floor commercial use.
 - b. No dwelling unit shall have more than two bedrooms.
 - c. Individual dwelling units shall not exceed 850 square feet of floor area.
 - d. One off-street parking space shall be provided for each bedroom within each dwelling unit.
3. Uses permitted either outright or conditionally in the C District shall not involve the transport of chemicals which would present a significant hazard.

D. Special Requirements for Large Scale Uses. Any of the uses listed in DCC 18.108.050(A)(7) or DCC 18.108.050(B)(10) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:

1. That the intended customers for the proposed use will come from the community and surrounding rural area, or the use will meet the needs of the people passing through the area. For the purposes of DCC 18.108.050(D), the surrounding rural area shall be that area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community;
2. The use will primarily employ a work force from the community and surrounding rural area; and
3. That it is not practical to locate the use in a building or buildings under 8,000 square feet of floor space.

E. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

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

1. Lot Area. No requirements.
2. Lot Width. No requirements.
3. Lot Depth. 100 feet.
4. Front Yard. The front yards shall be a minimum of 10 feet.
5. Side Yard. None, except when a side lot line is adjoining a lot in an RS or RM District, and then the side yard shall be a minimum of 10 feet. The required side yards shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
6. Rear Yard. None, except when a rear lot line is adjoining a lot in an RS or RM District, and then the rear yard shall be a minimum of 10 feet. The required rear yard shall be increased by one-half foot for each foot by which the building height exceeds 20 feet.
7. Lot Coverage. No requirements.

(Ord. 2015-0022 §13, 2015; Ord. 2015-004 §9, 2015; Ord. 2003-026 §1, 2003; Ord. 98-016 §1, 1998; Ord. 97-078 §2, 1997)

18.108.055. Town Center – TC District

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the TC District.

1. Park or plaza.
 2. Library.
 3. Community center.
 4. Visitors center.
 5. A building, or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including any of the following uses:
 - a. Retail/rental store, office, civic and service establishment.
 - b. Grocery store.
 - c. Art gallery.
 - d. Restaurant, bakery, delicatessen, pub, cocktail lounge, including entertainment.
 - e. Health care service including medical and dental clinic, office, pharmacy, and laboratory but excluding nursing homes.
 - f. Health & fitness facility.
 - g. Barber, beauty shop or spa.
 - h. Child care center, preschool and daycare facility.
 - i. Bank.
 - j. Post office.
 - k. Veterinary clinic (without animal boarding facilities).
 - l. Crafts in conjunction with retail sales (occurring on premises such as sculpture, stained glass, pottery, etc.).
 - m. Meeting room, convention and banquet facility.
 - n. Property sales, mortgage, management or rental office.
 - o. Movie theater.
 - ~~p. Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
 6. Multi-family Residential, subject to paragraphs (E)(1) and (2).
 7. Developed recreational facilities, outdoors or in a building or buildings each not exceeding 8,000 square feet of floor space, unless approved as a Large Scale Use pursuant to DCC 18.108.055(C), including, but not limited to the following facilities:
 - a. Indoor and outdoor swimming pools.
 - b. Ice skating rink.
 - c. Indoor and outdoor tennis courts.
 - d. Indoor and outdoor basketball court or other ball field.
 - e. Physical fitness facilities.
 - f. Park, playground and picnic and barbeque area.
 - g. Walkways, bike paths, jogging paths.
 - h. Bowling alley.
 - i. Arcade.
 8. Hotel with up to 100 hotel units in a single building.
 9. Mixed Use Structure, subject to the rules of DCC 18.108.055(E)(3) and a limit of 8,000 square feet of floor space for commercial uses listed in DCC 18.108.055(A)(5) or recreational uses listed in DCC 18.108.055(A)(7), unless said uses are approved as large scale uses pursuant to DCC 18.108.055(C).
 10. Residential Facility.
 11. Senior housing/assisted living or active adult development, excluding nursing homes.
 12. Townhomes, subject to paragraphs (E)(1) and (2).
 13. Accessory uses to uses permitted outright, including, but not limited to, parking facilities, private roads, storage facilities, trash receptacles and recycling areas.
 14. Similar uses to those allowed outright, provided they are approved by the County in the decision approving the Conceptual Site Plan described in DCC 18.108.055(K).
- B. Conditional Uses Permitted. The following conditional uses may be permitted pursuant to the provisions of DCC 18.128, Conditional Use Permits.

1. Public buildings and public utility buildings and structures.
 2. Bed and breakfast inn.
 3. Ambulance service.
 4. Fire station.
 5. Police station.
 6. Bus passenger station.
 7. Live/work residence.
 8. Stand-alone parking structure.
 9. Accessory uses to the above-listed conditional uses.
 10. Marijuana retailing subject to the provisions of DCC 18.116.330.
- C. Special Requirements for Large Scale Uses. Any of the uses listed in DCC 18.108.055(A)(5) or (A)(7) may be allowed in a building or buildings each exceeding 8,000 square feet of floor space if the Planning Director or Hearings Body finds:
1. That the intended customers for the proposed use will come from the Sunriver community and surrounding rural area. The surrounding rural area is the area identified as all property within five miles of the boundary of the Sunriver Urban Unincorporated Community; and/or
 2. The use will meet the needs of the people passing through the area.
- D. Form of Ownership/List of Uses.
1. Any lawful form of ownership is allowed in the TC District.
 2. The listing of uses permitted in the TC District is not intended to prohibit other uses allowed elsewhere in Sunriver.
 3. When a general use listed in the TC District includes a use or type of ownership that is more specifically described in another zone in Sunriver, the specific listing elsewhere does not prohibit that use from being conducted in the TC District.
- E. Use Limits.
1. Commercial uses, except for Type 1 home occupations as defined in DCC 18.116.280, are not allowed in Multi-family Residential buildings or Townhomes.
 2. Notwithstanding subsection (E)(1), above, the following uses are allowed in Multi-family Residential buildings or Townhomes:
 - a. Live/work residences.
 - b. Lock-off areas.
 - c. Accessory uses to the residential use of the building, such as parking and storage areas.
 3. In a Mixed Use Structure, any ground floor unit that has primary frontage along a public plaza approved as part of a Conceptual Site Plan shall be used only for commercial, recreational or community/governmental uses, but not for hotel units.
 4. A live/work residence is subject to the following conditions.
 - a. One or more walls of the residence adjoin another residential or commercial building.
 - b. The first floor above the garage is the ground floor, where a parking garage is provided below a residence, below the average finished grade and is completely obscured from view on at least one side of the building.
 - c. The commercial area of the live/work residence may not exceed fifty percent (50%) of the square footage of the entire unit, excluding the garage.
 - d. The commercial area shall not exceed 8,000 square feet in combination with other commercial uses in the same building unless the building has been approved as a part of a Large Scale Use pursuant to DCC 18.108.055(C).
- F. Building Height Regulations.
1. Except as provided in subsection (2), below, no Mixed Use Structure shall be erected, enlarged or structurally altered to exceed 60 feet in height.
 2. One Mixed Use Structure shall be permitted with a maximum height not to exceed 75 feet in height, so long as the building footprint of that portion of said building that exceeds 60 feet in height is not greater than 40,000 square feet of the footprint.

3. Townhomes may not exceed 40 feet in height.
 4. Multi-family Residential buildings that are not Mixed Use Structures may not exceed 50 feet in height.
 5. The height of all other buildings for uses other than those described in subsections (F)(1)-(4), above, may not exceed 45 feet in height.
 6. Where a parking garage is provided beneath buildings or structures described in subsection (F)(1) and (2), above, the height of the building shall be measured from the highest point of the roof to one of the following points:
 - a. A point equal to the elevation of the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest elevation adjacent to the building; or
 - b. A point equal to the elevation that is 10 feet higher than the lowest grade from the sidewalk or ground surface described in subsection (a), above, when the sidewalk or ground surface described in subsection (a) is more than 10 feet above lowest grade adjacent to the building.
 7. Projections and architectural elements such as chimneys, spires, clock towers, skylights, atriums, flag poles, mechanical equipment and screens and other similar items that do not add habitable interior floor area may be allowed to exceed the height limit by a maximum of 10 feet.
 8. Buildings that comply with the height limitations of this subsection also comply with the view protection requirement imposed by DCC 18.124.060(A).
- G. Lot Requirements. The following lot requirements shall be observed.
1. Front yard: the front yard shall be a minimum of 10 feet.
 - a. Where a lot has more than one front yard, only one front yard must meet the 10 feet minimum.
 - b. Below-grade parking structures that are built under private streets do not need to meet front yard setback requirements.
 2. Side yard: 0 feet.
 3. Rear yard: 0 feet.
 4. Frontage: 0 feet.
 5. Road Access.
 - a. Each lot shall have access to any required parking areas and driveways, and to a private road, via a perpetual easement recorded for the benefit of the subject lot.
- H. District Setback.
1. All development, including structures and sight-obstructing fences over three feet in height, shall be set back from exterior TC District boundaries by the following distances:
 - a. Where the TC District boundary borders an RS or RM District, the minimum setbacks will be:
 - 1) 15 feet from the TC District boundary for any portion of a building that is 45 feet or lower
 - 2) 20 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
 - 3) 50 feet from the TC District boundary for any portion of a building that is over 50 feet in height.
 - b. Where the TC District boundary borders a CL District, the minimum setbacks will be:
 - 1) Five feet from the TC District boundary for any portion of a building that is 45 feet or lower.
 - 2) 10 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
 - 3) 20 feet from the TC District boundary for any portion of a building that is over 50 feet in height and that does not exceed 60 feet in height.
 - 4) 50 feet from the TC District boundary for any portion of a building that is over 60 feet in height.
 - c. Where the TC District boundary borders any other zoning district, the minimum setback will be:

- 1) 10 feet from the TC District boundary for any portion of a building that is 45 feet in height or lower.
 - 2) 15 feet from the TC District boundary for any portion of a building that is over 45 feet in height and that does not exceed 50 feet in height.
 - 3) 20 feet from the TC District boundary for any portion of a building that is over 50 feet in height.
2. Items allowed in the District Setback include, but are not limited to, parking, roads, signage, pedestrian pathways, street trees, planters, driveways, landscaping, and outdoor seating.
- I. Floor Area Ratio.
1. The maximum Floor Area Ratio in the TC District is 1.0.
 2. Floor Area Ratio is determined by dividing the enclosed floor area of all floors of all buildings that are proposed by a Conceptual Site Plan by the land area to be bound by the Conceptual Site Plan.
 3. The following areas are not a part of the “enclosed floor area of all buildings”:
 - a. Below-grade parking garages and mechanical rooms and storage areas located on the same floor as the parking garage.
 - b. Crawl spaces and attics that are not suited to human occupancy.
- J. Zone Coverage.
1. The total square footage of the building footprints of buildings and enclosed structures is limited to fifty percent (50%) of the gross acreage bound by a Conceptual Site Plan in the TC District.
 2. The total square footage of the building footprints of Multi-family Residential and Townhome buildings allowed by DCC 18.108.055(A)(6) and (12) is limited to a maximum of twenty percent (20%) of the gross acreage of the TC District.
 3. When calculating the building footprint, buildings and enclosed structures include any deck that is more than 12 inches above finished grade and all areas within any screened enclosure permanently affixed to the ground.
 4. The following are not included as building or structures for purposes of calculating building footprint:
 - a. Eaves and any driveway, road, walkway, deck, patio, plaza, or porch that is 12 inches or less above finished grade (except with affixed improvements that exceed 12 inches); and
 - b. Parking areas on or below finished grade.
- K. Conceptual Site Plan.
1. Prior to or concurrent with approval of a site plan or conditional use permit, an applicant must file for approval of a Conceptual Site Plan.
 2. A Conceptual Site Plan shall provide a master plan that depicts the approximate location of all of the applicant’s proposed land uses.
 3. All land owned or controlled by the applicant in the TC District must be shown on and will be bound by the applicant’s Conceptual Site Plan.
 4. A Conceptual Site Plan application must include all of the following information:
 - a. Types of uses.
 - b. Site circulation.
 - c. Pedestrian Facilities.
 - d. Traffic impact study, as described in DCC 17.16.115.
 - e. The following additional information:
 - 1) An analysis of site access points to Abbott Drive and Beaver Drive by a registered professional engineer who specializes in traffic analysis work that describes operational, capacity and sight distance issues of those access points and the impact of Conceptual Site Plan development on those access points.
 - 2) Identification of street system improvements needed to support the proposed development based on the information provided by the reviews required by this subsection (d).
 - 3) A schedule for the construction of needed street improvements, if any, keyed to development benchmarks.

- f. Approximate location of phase boundaries, if phased development is proposed, and notation of the phasing sequence.
- g. The projected location and projected range of building or structure size, in square feet, for commercial uses.
- h. The projected location and projected range of the number of dwelling units for residential use.
- i. The projected location and approximate size, in square feet, of plazas and public gathering areas.
- j. Elevations throughout the site that represent general elevations of each use.
 - 1) Examples of uses for which such elevations should be shown on the Conceptual Site Plan are residential, hotel or commercial structures, pedestrian plazas, parking areas, road intersections, and at length along all roadways.
 - 2) Such elevations must show existing and projected finished elevations.
- k. The projected footprint and location of new buildings or parking areas. The exact footprints and locations of buildings and parking areas shall be determined during site plan review.
- l. Existing uses on lands owned or controlled by persons other than the applicant.
5. A Conceptual Site Plan shall be approved if it demonstrates that future development is located on the subject property so that, in addition to the requirements of DCC 18.108.055, the following standards can be met at the time of site plan review:
 - a. DCC 23.40.025; and
 - b. DCC 18.124.060 (A) - (E) and (I); interpreted as described in DCC 23.40.025(E)(1)(d)(3).
6. Approval of a Conceptual Site Plan does not authorize uses or development.
7. An applicant shall commence development within five years of the date of final approval of the Conceptual Site Plan unless an extension of the duration of approval of the Conceptual Site Plan has been granted pursuant to DCC 22.36.010(C).
8. Substantial construction of a Conceptual Site Plan development, for purposes of DCC 22.36.020(A)(2), occurs when the first building authorized by the Plan has been substantially constructed, as defined by DCC 22.36.020(B).
- L. Application and approval process.
 1. A site plan or conditional use application shall be consistent with the Conceptual Site Plan with the following exceptions.
 - a. Existing structures or features can be used or altered to meet the requirements of subsections (5) and (10)-(13) of this subsection.
 - b. If the existing structures or features were included in a site plan approval under DCC 18.108.055 and the existing structures or features are proposed to be altered by subsequent site plan, that subsequent site plan must demonstrate compliance with the requirements of subsections (5) and (10)-(13) of this subsection.
 2. A site plan application shall include the number of all uses by type, their ITE code and their pm peak hour trips.
 3. Each site plan, cumulatively with any previously approved site plan, shall demonstrate that the development will not generate traffic at a rate that will exceed the number of pm peak hour vehicle trips for residential and commercial uses assumed in the traffic study required by subsection (K)(4) above.
 4. Adjustments may be made to building locations, sizes, footprints, unit counts and phase boundaries shown on the Conceptual Site Plan during site plan review if such adjustments do not constitute a change requiring modification of approval of the Conceptual Site Plan pursuant to DCC 22.36.040.
 5. An applicant seeking site plan approval shall demonstrate that, when the development that is subject to the site plan approval is complete, a ratio of 150 square feet of commercial space to one dwelling unit will be met.
 6. The term "dwelling unit" used in subsection (5), above, includes:
 - a. All hotel and residential dwelling units, including Multi-family Dwellings and Townhomes.

- b. Lock-off Areas shall be counted as a half dwelling unit for purposes of calculating the ratio described in subsection (5), above.
- 7. The development in the TC District, cumulatively with any previously approved site plan, must meet the ratio in subsection (5) above.
- 8. When a second or subsequent site plan is approved a commercial area shown on a prior site plan may be counted toward meeting the required ratio in Subsection (5) above only if construction of the commercial area approved on a prior site plan has been commenced.
- 9. The site plan shall include the projected finished and existing grade elevations of the site indicating every foot of elevation change on the subject property.
- 10. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the fifteen percent (15%) lot area landscaping requirement of DCC 18.124.070(B)(1)(a).
 - a. Landscape areas existing as of the adoption of Ordinance 2008-105 may be used to determine compliance with the fifteen percent (15%) rule as long as the existing landscaping is included in the site plan.
 - b. In the TC District, plazas available to the public may be included to demonstrate compliance with the fifteen percent (15%) landscaping requirement.
- 11. Each site plan, cumulatively with all previous site plans, shall demonstrate compliance with the FAR requirements of DCC 18.108.055(I).
- 12. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the recreation space requirements of DCC 18.124.070(A)(2).
- 13. Each site plan, cumulatively with all previously approved site plans, shall demonstrate compliance with the zone coverage requirements of DCC 18.108.055(J).
- 14. Where improved bike paths cross land proposed for site plan development, the applicant shall retain or relocate and rebuild the bike path.
- M. Any application for a zone change to the Town Center District shall include a copy of a signed development agreement between the property owner, the applicant, if different than the property owner, and the homeowners association.

(Ord. 2015-0022 §13, 2015; Ord. 2015-004 §9, 2015; Ord. 2008-015 §2, 2008)

18.108.110. Business Park - BP District.

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

Retail/rental store, office and service establishment, including but not limited to the following:

 - a. Automobile, motorcycle, boat, recreational vehicle, trailer or truck sales, rental, repair or maintenance business, including tire stores and parts stores.
 - b. Agricultural equipment and supplies.
 - c. Car wash.
 - d. Contractor's office, including but not limited to, building, electrical, plumbing, heating and air conditioning, painter, etc..
 - e. Construction equipment sales, rental and/or service.
 - f. Exterminator services.
 - g. Golf cart sales and service.
 - h. Lumber yard, home improvement or building materials store.

- i. Housekeeping and janitorial service.
 - j. Dry cleaner and/or self-service laundry facility.
 - k. Marine/boat sales and service.
 - l. Restaurant, bar and cocktail lounge including entertainment.
 - p. ~~Medical marijuana dispensary subject to DCC 18.116.320, Medical Marijuana Dispensary.~~
Marijuana processing cannabinoid concentrates and cannabinoid products not including processing of cannabinoid extracts subject to the provisions of DCC 18.116.330.
 - q. Marijuana wholesaling, office only with no storage of marijuana items, subject to the provisions of DCC 18.116.330.
8. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
- a. Scientific research or experimental development of materials, methods or products, including engineering and laboratory research.
 - b. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials, including but not limited to cloth, paper, leather, precious or semi-precious metals or stones, etc.
 - c. Manufacture of food products, pharmaceuticals and the like, but not including the production of fish or meat products, or the rendering of fats and oils.
 - d. Warehouse and distribution uses in a building or buildings each less than 10,000 square feet of floor area.
- B. Conditional Uses Permitted. The following conditional uses may be permitted subject to DCC 18.128 and a conditional use permit:
- 1. Public buildings and public utility structures and yards, including railroad yards.
 - 2. A dwelling unit for a caretaker or watchman working on a developed property.
 - 3. Law enforcement detention facility.
 - 4. Parking lot.
 - 5. Radio and television broadcast facilities.
 - 6. A building or buildings each not exceeding 8,000 square feet of floor space housing any combination of:
 - a. Bowling alley.
 - b. Theater.
 - c. Veterinary clinic and/or kennel.
 - d. Marijuana processing of cannabinoid extracts subject to the provisions of DCC 18.116.330.
 - e. Marijuana retailing subject to the provisions of DCC 18.116.330.
 - 7. A building or buildings each not exceeding 20,000 square feet of floor space housing any combination of:
 - a. Warehouses and distribution uses in a building or buildings exceeding 10,000 square feet of floor area.
 - b. Distillery and beer/ale brewing facility, including wholesale sales thereof.
 - c. Self/mini storage.
 - d. Trucking company dispatch/terminal.
 - e. Solid waste/garbage operator, not including solid waste disposal or other forms of solid waste storage or transfer station.
- C. Use Limits. The following limitations and standards shall apply to uses listed in DCC 18.108.110(A) or (B):
- 1. A use expected to generate more than 30 truck-trailer or other heavy equipment trips per day to and from the subject property shall not be permitted to locate on a lot adjacent to or across the street from a lot in a residential district.
 - 2. Storage, loading and parking areas shall be screened from residential zones.

3. No use requiring air contaminant discharge permits shall be approved by the Planning Director or Hearings Body prior to review by the applicable state or federal permit reviewing authority, nor shall such uses be permitted adjacent to or across the street from a residential lot.

D. Special Requirements for Large Scale Uses.

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

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

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

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

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

| (Ord. 2015-0022 §13, 2015; Ord. 2015-004 §9, 2015; Ord. 2012-002 §1, 2012; Ord. 97-078 §2, 1997)

“*****” Denotes portions of this Section not amended by Ordinance 2015-022.

Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.280. Home Occupations.

F. Prohibited Uses: The following uses shall be prohibited as a home occupation:

1. Marijuana production;
4. Marijuana processing;
5. Marijuana wholesaling; and
6. Marijuana retailing.

(Ord. 2015-022 §14, 2015; Ord 2007-021 §1, 2007; Ord 2004-002 §24, 2004)

~~Section 18.116.320. Medical Marijuana Dispensary~~

~~Medical marijuana dispensaries shall meet the following requirements:~~

- ~~A. The location is subject to the Oregon Medical Marijuana Act under ORS Chapter 475.~~
- ~~B. The hours of operation shall not exceed 10:00am to 7:00pm.~~
- ~~C. The dispensary is registered with the Oregon Health Authority under the state of Oregon's medical marijuana facility registration system under ORS 475.300-475.346, and meeting the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.~~
- ~~D. The dispensary must be registered with the Oregon Health Authority under ORS 475.314 and comply with all OHA rules.~~
- ~~E. The addition or conversion of the dispensary to recreational use marijuana sales and distribution is a change of the use and subject to County land use review and approval for alteration of the medical marijuana dispensary use.~~

(Ord. 2015-022 §14, 2015; Ord. 2015-004 §10, 2015)

18.116.330. Marijuana Production, Processing, Retailing, and Wholesaling

Purpose

The purpose of DCC 18.116.330 is to establish reasonable time, place and manner regulations for recreational and medical marijuana production, processing, retailing and wholesaling.

- A. Marijuana production and marijuana processing. Marijuana production and marijuana processing shall be subject to the following standards and criteria:
 1. Minimum Yard Depth. No land area or structure used for marijuana production or marijuana processing shall be located closer than 200 feet from any lot line.
 2. Additional Setback. No land area or structures used for marijuana production or marijuana processing shall be located closer than 300 feet from an existing dwelling unit not located on the same property as marijuana production or marijuana processing use.

3. Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production or marijuana processing described in the application. Such evidence shall include any conditions stipulated in the agreement.
4. Odor. A building, including greenhouses, used for marijuana production or marijuana processing shall be equipped with a carbon filtration system for odor control.
 - a. The system shall consist of one or more fans and filters.
 - b. The fan(s) shall be sized for cubic feet per minute (CFM) and the filter(s) shall be rated for the required CFM.
 - c. The filtration system shall be maintained in working order and shall be in use.
 - d. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - e. Negative air pressure shall be maintained inside the building.
 - f. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.
5. Lighting. Lighting shall be regulated as follows:
 - a. Light cast by light fixtures inside any building, including greenhouses, used for marijuana production or marijuana processing, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day.
 - b. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day.
 - c. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10.
6. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements for the Oregon Health Authority (OHA).
7. Secure Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.
8. Screening. Medical marijuana production buildings, including greenhouses, and operations lawfully established prior to the adoption of this ordinance shall be screened in the following manner:
 - a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties.
 - b. Vegetation shall be continuously maintained.
 - c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used.
 - d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.
9. Water. The applicant shall submit proof from the watermaster that the proposed water supply complies with all applicable local, state, and federal laws.
10. Minimum Separation Distances. Minimum separation distances shall apply as follows:
 - a. The use shall be located a minimum of 1000 feet from:

- i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school;
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
 - iv. A youth activity center; and
 - v. A park.
 - b. For purposes of Subsection 18.116.330(A)(10), all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana producer or marijuana processor.
 - c. A change in use (including a zone change) to another property to a use identified in Subsection 18.116.330(A)(10), after a marijuana producer or processor has been licensed by or registered with the State of Oregon shall not result in the marijuana producer or marijuana processor being in violation of Subsection 18.116.330(A)(10).
11. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of a fire protection district.
12. Nonconformance. All marijuana production and processing operations lawfully established prior to the effective date of the requirements codified in this ordinance are exempt from all such regulations until December 31, 2016, at which time the use and buildings, including greenhouses, shall comply with the provisions of DCC 18.116.330A(4) through A(8).
- B. Marijuana retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:
- 1. Hours. Operating hours shall be no earlier than 10:00 a.m. or later than 7:00 p.m. on the same day.
 - 2. Window Service. The use shall not have a walk-up window or drive-thru window service.
 - 3. Secure Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the licensee.
 - 4. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.
 - 5. Minimum Separation Distances. Minimum separation distances shall apply as follows:
 - a. The use shall be located a minimum of:
 - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school;
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool;
 - iv. A youth activity center;
 - v. A park; and
 - vi. 1000 feet from any other marijuana retail facility licensed the Oregon Liquor Control Commission (OLCC) or registered with the Oregon Health Authority (OHA).
 - b. For purposes of Subsection 18.116.330(B)(7), all distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the property occupied by the marijuana producer or marijuana processor, by the marijuana retailer.

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

d. A marijuana retailer that falls under Subsection 18.116.330(B)(7), may relocate to another location in the same building.

(Ord. 2015-022 §14, 2015)

“****” Denotes portions of this Section not amended by Ordinance 2015-024.

19.04.020. Purpose.

- A. DCC Title 19 has been designed in accordance with the goals, policies and statements of intent of the Bend Area General Plan, the officially enacted comprehensive plan for the City of Bend and its environs. It is the general purpose of DCC Title 19, therefore, to provide one of the principal means for implementation of the Bend Area General Plan.
- B. DCC Title 19 is designed to classify, designate and regulate the location and use of buildings, structures and land for residential, commercial, industrial or other uses in appropriate places and for said purposes; to divide the Bend Urban Area into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of lands; to conserve and stabilize the value of natural resources; to provide adequate open spaces for light and air and prevention of fire; to prevent undue concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities, such as transportation, water, sewerage, schools, parks and other public requirements; and to promote the public health, safety and general welfare.
- C. To regulate placement, height and bulk of buildings, and the placement and growth of vegetation within the County to insure access to solar energy by reasonably regulating interests in property within the County, as authorized under ORS 215.044 and ORS 105.880 through 105.890; to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan policies relating to solar energy.
- D. To encourage the design of new buildings, structures and developments which use solar energy and protect future options to use solar energy by protecting solar access.
- E. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 19.

(Ord. 2015-0__ ; Ord. 83-041 §1, 1983)

19.04.040. Definitions.

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

“Marijuana Processing” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

“Marijuana production” means the manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.”

“Marijuana retailing” means the sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission for recreational marijuana sales or registered with the Oregon Health Authority for medical marijuana sales.

“Marijuana wholesaling” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2015-0___; Ord. 2014-016 §1, 2014; Ord. 2013-013 §1; Ord. 99-001 §§2-4, 1999; Ord. 97-038 §1, 1997; Ord. 97-017 §1, 1996; Ord. 96-071 §1D, 1996; Ord. 95-045 §15, 1995; Ord. 94 027 §§1 & 2, 1994;

Ord. 92-043 §1, 1992; Ord. 91 029 §§1, 8, 9 and 10, 1991; Ord. 91-001 §1, 1991; Ord. 90-038 §1, 1990; Ord. 90-007 §1, 1990; Ord. 88-042 §3, 1988; Ord. 86-058 §1, 1986; Ord. 86-055 §1, 1986; Ord. 86-033 §1, 1983; Ord. 86-032 §1, 1986; Ord. 86-017 §1 Exhibit a, 1986; Ord. 830945 §1, 1983; Ord. 83-041 §2, 1983; Ord. 80-217 §1 Exhibit A, 1980)

“**” Denotes portions of this Section not amended by Ordinance 2015-025.**

20.04.030. Purpose.

DCC Title 20 is adopted for the purpose of promoting the health, safety, peace, comfort, convenience, economic well-being and general welfare of the Redmond Urban Area and not limited to, but specifically to achieve the following designated objectives.

- A. To protect the present and existing character and values of land and buildings in the UH-10 zone until such land is ready to be developed for urban uses and is annexed into the City:
 - 1. Preventing the intrusion of inharmonious uses or uses that may impede the conversion of land to urban use.
 - 2. Preventing the encroachment on desirable open space and natural features.
 - 3. Providing and planning for the safe and efficient movement of existing and future traffic.
 - 4. Assuring the planning for and provision of necessary public facilities prior to conversion to urban uses.
- B. To provide for additional growth and development in a manner appropriate to the character of the Redmond Urban Area and which will contribute to the economic stability of said area and strengthen the basis of its private and governmental economy.
- C. To assure that future development occurs in an orderly manner to provide for economy and efficiency in public services and utilities and to protect the public from costs which may be incurred when unsuitable, scattered or premature development occurs.
- D. To minimize traffic hazards, traffic congestion and the conflict between land uses and the movement of traffic.
- E. To regulate the placement, height and bulk of buildings.
- F. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 20.

(Ord. 2015-0 :Ord. 2006-019 §2, 2006; Ord. 2001-016 §2, 2001; Ord. 94-013 §1, 1994; Ord. 83-040 §1, 1983; Ord. 80-201, 1980)

20.04.050. Definitions.

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high

heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

“Marijuana Processing” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.”

“Marijuana production” means the manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder.”

“Marijuana retailing” means the sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission for recreational marijuana sales or registered with the Oregon Health Authority for medical marijuana sales.

“Marijuana wholesaling” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2015-0 ____; Ord. 2006-019 §2, 2006; Ord. 2001-016 §2, 2001; Ord. 94-013 §1, 1994; Ord. 83-040 §2, 1983; Ord. 81-007 §1, 1981; Ord. 80-201, 1980)

“****” Denotes portions of this Section not amended by Ordinance 2015-026.

21.04.020. Purpose.

- A. DCC Title 21 has been designed to be consistent with the goals, policies, programs, elements, and statements of intent of the Sisters Urban Area Comprehensive Plan, the officially adopted comprehensive plan for the City of Sisters and its surrounding urbanizing area. The general purpose of DCC Title 21 is to provide for one principal means for implementation of the Sisters Urban Area Comprehensive Plan.
- B. DCC Title 21 is designed to classify, designate and regulate the use of land within the Sisters Urban Area Growth Boundary outside the City of Sisters City Limits. To achieve this purpose, DCC Title 21 divides the Sisters Unincorporated Urban Area into appropriate zoning districts as set forth in the policies and elements of the Sisters Urban Area Comprehensive Plan.
- C. The further purpose of DCC Title 21 policies and elements of the Sisters Area Comprehensive Plan, is to encourage the most appropriate use of land; to conserve and preserve natural resources and the quality that is unique to Sisters, including open space for light, air, fire prevention, and for sanitary purposes; to prevent undue or uncharacteristic concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities such as transportation, water, sewage, schools, parks other public requirements; to promote the public health, safety, general welfare and to protect and enhance the visual quality of the Sisters area.
- D. Marijuana processing, production, retailing, and wholesaling are prohibited on properties subject to the provisions of Title 21.
(Ord. 2015-0__ ; Ord. 2004-004 §2, 2004; Ord. PL-17 §2, 1979)

21.04.040. Definitions.

“Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.

“Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process; a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, or ethanol; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.

“Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane; a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

“Cannabinoid product” means a cannabinoid edible and any other product intended for human

consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. Cannabinoid product does not include usable marijuana by itself, a cannabinoid concentrate by itself, a cannabinoid extract by itself, or industrial hemp as defined in Oregon Revised Statutes 571.300.

“Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

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“Marijuana wholesaling” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

“Person designated to produce marijuana by a registry identification cardholder” means person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(Ord. 2015-026, §1, 2015; Ord. 2004-004, §2, 2004; Ord. 97-048 §1, 1997; Ord. 88-038 §1, 1988; Ord. 80-225 §1, 1980; Ord. PL-17 §4(1)-(108), 1979)

PLANNING COMMISSION RECOMMENDATIONS

SUMMARY OF ZONES PERMITTING MARIJUANA RELATED BUSINESSES

(This table identifies the zones where marijuana related businesses are recommended to be allowed.)

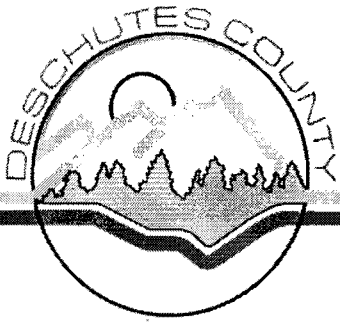
Zone	Processing	Production	Retail	Wholesale	Comments	
Permitted: P Conditional Use: CU Not Allowed: -						
	Excluding Extracts	Including Extracts				
TITLE 18 – Deschutes County						
18.16 Exclusive Farm Use – EFU	P	P	P	-	-	Recommendation is to require 20-acre minimum parcel size
18.65 RURAL SERVICE CENTER – UC						
18.65.020 Commercial Mixed Use District (Brothers, Hampton, Millican, Whistlestop, Wildhunt)	-	-	-	CU	P	
18.65.021 Commercial Mixed Use (Alfalfa)	-	-	-	CU	P	
18.66 TERREBONNE RURAL COMMUNITY						
18.66.040 Commercial – TeC	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.66.050 Commercial Rural – TeCR	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.67 TUMALO RURAL COMMUNITY						
18.67.030 Residential 5-acre – TuR5	-	-	-	-	-	
18.67.040 Commercial – TuC	CU	CU	-	CU	P	Recommendation is wholesaling to be office only with no storage of marijuana products allowed.
18.67.060 Industrial – Tul	P	CU	-	CU	-	
18.74 RURAL COMMERCIAL						
18.74.020 Deschutes Junction and Deschutes River Woods Store	-	-	-	CU		
18.74.025 Spring River	-	-	-	CU	-	
18.74.027 Pine Forest and Rosland	-	-	-	CU	P	
18.100 Rural Industrial	P/CU	CU	CU	CU	-	
18.108 SUNRIVER UUC						
18.108.050 Commercial - SUC	-	-	-	CU	P	
18.108.055 Town Center - TC	-	-	-	CU	-	
18.108.110 Business Park - SUBP	P	CU	-	CU	P	
TITLE 19 - BEND						
No Marijuana Related Businesses Allowed						
TITLE 20 - REDMOND						
No Marijuana Related Businesses Allowed						
TITLE 21 - SISTERS						
No Marijuana Related Businesses Allowed						

PLANNING COMMISSION RECOMMENDATIONS
SUMMARY OF STANDARDS FOR MARIJUANA RELATED BUSINESS

	Marijuana Processing	Marijuana Production	Marijuana Retail	Marijuana Wholesaling	Staff Comments / Recommendations
Section 18.116.280					
Home Occupation	Prohibited	Prohibited	Prohibited	Prohibited	
Section 18.116.320					
Medical Marijuana Dispensaries (Repeal)					This section will be repealed and replaced by a combined dispensary/retail standards section.
Section 18.116.330					
Yard Setback	200 feet	200 feet			
Additional Setback	300 feet from an existing dwelling unit not located on the same property	300 feet from an existing dwelling unit not located on the same property			
Access	<ul style="list-style-type: none"> Public road Exclusive road or easement If shared private road or easement, all other property owners who have access rights to the private road or easement must agree 	<ul style="list-style-type: none"> Public road Exclusive road or easement If shared private road or easement, all other property owners who have access rights to the private road or easement must agree 			
Odor	Buildings and Greenhouses shall: <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM. The filtration system shall be maintained in working order and shall be in use. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required. 	Buildings and Greenhouses shall: <ul style="list-style-type: none"> Equipped with carbon Filtration system Consist of 1 or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM. The filtration system shall be maintained in working order and shall be in use. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required. 			Staff recommends further refinement including: <ul style="list-style-type: none"> Reducing the CFM rate because it is to be excessive and unreasonable. Requiring doors and windows to remain closed excepts as needed for ingress/egress. Negative pressures shall be maintained inside the building.
Lighting	General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (i.e., require shielding or obscuring roof/walls of greenhouses). <ul style="list-style-type: none"> Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 	General consensus to mitigate light and preserve dark skies, but no consensus on to what extent or method (i.e., require shielding or obscuring roof/walls of greenhouses). <ul style="list-style-type: none"> Light cast by light fixtures inside any building, including greenhouses, shall be screened or shielded from view outside the building to the maximum extent possible from sunset to sunrise the following day. Outdoor marijuana grow lights shall not be illuminated from sunset to sunrise the following day. Light cast by exterior light fixtures shall comply with the outdoor lighting standards of DCC 15.10. 			Keep in the marijuana-related business regulations and reference the applicability of DCC 15.10, Outdoor Lighting Ordinance (“Dark Skies Ordinance”) to greenhouses and transparent buildings. Amend, DCC 15.10 to specifically apply to marijuana production and processing in greenhouses and transparent buildings. Policy question of whether to apply lighting regulations to existing greenhouses and transparent buildings by Dec. 31, 2016. If yes, please see staff comments in the “Non-conformance” section below pertaining to potential legal issues. Consider revising “sunset to sunrise” to “7:00 p.m. to 7:00 a.m. the following day” to make it easier to enforce.
Security Cameras	Shall be directed to record only the subject property and public rights-of-way.	Shall be directed to record only the subject property and public rights-of-way.			In addition to the PC’s recommendation, add a statement “except as required to comply with licensing requirements of OLCC or registration requirements of OHA.”

Secure Disposal	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.	Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.		
Noise	Move to Noise Control Ordinance 8.08, and apply to all marijuana production and processing building and mechanical equipment outside of a commercial or industrial zone.	Move to Noise Control Ordinance 8.08, and apply to all marijuana production and processing building and mechanical equipment outside of a commercial or industrial zone.			Reference the applicability of these noise standards to marijuana-related businesses in the marijuana regulations, and move the regulations to DCC 8.08.
Screening	<p>Do not apply to buildings and greenhouses for new operations because OLCC’s security and site obscuring requirements combined with Planning Commission recommendations (i.e., increased setbacks) will mitigate impacts.</p> <p>These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts:</p> <p>a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties.</p> <p>b. Vegetation shall be continuously maintained.</p> <p>c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used.</p> <p>d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.</p>	<p>Do not apply to buildings and greenhouses for new operations because OLCC’s security and site obscuring requirements combined with Planning Commission recommendations (i.e., increased setbacks) will mitigate impacts.</p> <p>These standards should only apply to existing, non-conforming operations, including buildings and greenhouses to mitigate impacts:</p> <p>a. A row of evergreen trees or shrubs along the outside perimeter of the land area and buildings, including greenhouses, shall be no less than 4 feet in height when planted, and spaced in such a way as to reduce the visual impacts of the land areas and buildings as viewed from roads, rivers, streams, and abutting private properties.</p> <p>b. Vegetation shall be continuously maintained.</p> <p>c. Combination of existing vegetation, berming, topography, wall, fence, or other can be used.</p> <p>d. All materials used for buildings, structures, and fencing, excluding greenhouses shall be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the marijuana production and processing area.</p>			Please see staff comments under “Non-conforming” below comments.
Water	Proof from the watermaster that proposed water supply complies all applicable local, state, and federal laws.	Proof from the watermaster that proposed water supply complies all applicable local, state, and federal laws.			
Minimum Separation Distances	<ul style="list-style-type: none">1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care.All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject propertyChange of use (i.e. new school) shall not cause violation of this standard	<ul style="list-style-type: none">1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care.All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject propertyChange of use (i.e. new school) shall not cause violation of this standard	<ul style="list-style-type: none">1000 from public/private elementary and secondary schools, licenses child care center, licensed preschool, parks, and all approved/licensed youth activity centers (i.e., Boys & Girls Club) with a 501c3 status or description stating youth activities, excluding in-home child care.All distances shall be measured from the lot line of the affected property (e.g., a school) to the closest lot line of the subject propertyChange of use (i.e. new school) shall not cause violation of this standard		<p>Need to decide:</p> <ul style="list-style-type: none">What qualifies as a youth activity center-501c3 status with title or description stating youth activities?How to obtain information on such activity centers during application review process?What happens if something is missed in the application review process? Could be challenging to include all such centers. Staff recommends this be clear and objective if it is included in the requirements.
Fire Protection		Marijuana processing of cannabinoid extracts shall only be permitted on properties located within a fire district.			

<p>Nonconformance:</p> <p>Applying to lawfully established medical marijuana grows that continue to by only medical marijuana grows</p>	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.	Shall comply with odor, lighting, security camera, secure disposal, noise, and screening requirements by 12/31/16.			<p>Existing, lawfully established (by OHA and County building, electrical, mechanical, etc. permits) medical marijuana production/grow sites should be clearly established in DCC as “legal, non-conforming” buildings and land uses.</p> <p>Legal and operational questions, however, exist about whether these standards can be applied retroactively to current medical marijuana production/grow sites. NOTE: Processing requires a land use permit under DCC, and no permits have been applied for or approved.</p> <p><u>QUESTIONS / ISSUES</u></p> <p>Is it legal to apply these standards to lawfully established pre-existing medical marijuana production/grow sites?</p> <p>Operationally, the County’s imposing new requirements on pre-existing medical marijuana production/grow sites raises the following issues:</p> <ol style="list-style-type: none">1. The County does not have a list of properties already approved by OHA for medical marijuana production/growing. Therefore, identifying locations, the number of registered and active productions/grows, etc. is unknown, and obtaining this information is legally challenging and may not be possible beyond responding to code enforcement complaints.2. Imposing these regulations require active code enforcement rather than complaint-drive code enforcement, resulting in a change in the program.3. Given the potential large number of properties and expected legal and compliance challenges, additional code enforcement, administrative, and legal resources (i.e., financial, limited duration staff) would be required for implementation. <p>NOTE: The County applied the Outdoor Lighting Ordinance (DCC 15.10) to all properties in the County and provided several years to comply. Staff is aware of imposing lighting and signage requirements retroactively with time to comply, but not other requirements.</p>
Hours			10:00 a.m. - 7:00 p.m.		
Window Service			Shall not have a walk-up window or drive-thru window service.		
Co-Location			Shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.		
Limit the Number of licenses a parcel		Consider limiting the number of OLCC production licenses of one type on a parcel to 1 indoor and 1 outdoor license per 10 or 20 acres.			Staff is researching this issue. If the Board supports this recommendation, staff will draft text to include it in the marijuana regulations.
Require inspections in 1-2 years to determine compliance	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to conduct the inspection.	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to conduct the inspection.	County to conduct inspections of each approved site in 1-2 years to determine compliance and to learn what’s working and what’s not. Require property owner to grant County access to conduct the inspection.		Most of the staff comments under “Nonconformance” above apply to this requirement. Specifically, the resource requirements and pro-active code enforcement comments apply. In addition, staff cannot trespass. Therefore, if the Board supports this recommendation, the same requirement in the Agri-tourism and Other Commercial Events and Activities requiring the property owner to grant access should be required for marijuana production and processing permits.
Task Force	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements	Create a stakeholder task force to monitor the program and regulations, make recommendations for improvements		If the Board supports establishing and staffing a task force, the options are: <ol style="list-style-type: none">1. Add to a future CDD Planning Division Work Plan;2. Re-evaluate and re-prioritize the current Work Plan to create capacity for this project; or3. Hire additional staff to establish and staff the Task Force immediately.



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

HEARINGS OFFICER DECISION

FILE NUMBERS: 247-15-000529-A; M-07-2; MA-08-6

REQUEST: Applicant requests a proceeding on remand of its approval of the Thornburgh Destination Resort Final Master Plan in application M-07-02/MA-08-6.

This hearing is scheduled pursuant to the Oregon Land Use Board of Appeals decision, after review by the Oregon Court of Appeals, remanding the Deschutes County Hearings Officer decision approving the applications.

OWNER: Loyal Land LLC Agnes DeLashmutt
78340 Birkdale Court 2447 NW Canyon
La Quinta, CA 92253 Redmond, OR 97756

APPLICANT: Thornburgh Resort Co., Central Land and Cattle Co., LLC

LOCATION: The properties subject to this application are identified on County Assessor's map 15-12, as tax lots 5000, 5001, 5002, 7700, 7701, 7800, 7801, 7900, and 8000

STAFF CONTACT: Peter Gutowsky. Peter.Gutowsky@deschutes.org

I. STANDARDS AND APPLICABLE CRITERIA:

Title 18 of the Deschutes County Code, Zoning Ordinance:

Chapter 18.16, Exclusive Farm Use Zone (EFU-SC)

*Section 18.16.035, Destination Resorts

Chapter 18.113, Destination Resort Zone (DR)

*Section 18.113.070, Approval Criteria

*Section 18.113.090, Requirements of Final Master Plan

*Section 18.113.100, Procedure or Approval of Final Master Plan

Title 22, of the Deschutes County Code, Development Procedures Ordinance

Chapter 22.08. General Provisions

*Section 22.08.010, Application Requirements

Chapter 22.20, Review of Land Use Action Applications

*Section 22.20.040, Final Action in Land Use Actions

Chapter 22.24, Land Use Action Hearings
*Section 22.24.080, Standing
Chapter 22.28, Land Use Action Decisions
*Section 22.28.010, Decision

Proceedings on Remand

*Section 22.34.010, Purpose
*Section 22.34.020, Hearings Body
*Section 22.34.030, Notice and Hearing Requirements
*Section 22.34.040, Scope of Proceeding

II. BASIC FINDINGS:

- A. LOCATION:** The subject property consists of approximately 1,970 acres of land located west of Redmond, Oregon, on the south and west portions of a geologic feature known as Cline Buttes. The property is bordered on three sides by Bureau of Land Management (BLM) land, and is also in close proximity to Eagle Crest, another destination resort development. The subject property is identified on County Assessor's Index Map15-12, as tax lots 5000, 5001, 5002, 7700, 7701, 7800, 7801, 7900, and 8000.
- B. LOT OF RECORD:** As part of the CMP approval (CU-05-20), the Hearings Officer found the subject property consists of several legal lots of record based on previous county determinations (LR-91-56, LR-98-44, MP-79-159, CU-79-159 and CU-91-68).
- C. ZONING AND PLAN DESIGNATION:** The subject properties are zoned Exclusive Farm Use (EFU-TRB) within a Destination Resort (DR) Overlay Zone. The property is designated Agriculture on the Deschutes County Comprehensive Plan Map.
- D. PROPOSAL:** Applicant requests a proceeding on remand of its approval of the Thornburgh Destination Resort Final Master Plan in application M-07-02/MA-08-6.
- E. SITE DESCRIPTION:** The subject property is approximately 1,970 acres in size and has vegetation consisting of juniper woodland. The property covers the south and west portions of the geologic feature known as Cline Buttes. The property currently is developed with three dwellings and a barn, access to which is from Cline Falls Highway. The property is engaged in farm use consisting of low-intensity livestock grazing.
- F. SURROUNDING LAND USES:** The subject property is surrounded by public land primarily owned and managed by the BLM. A portion of the public land is owned and managed by the Oregon Department of State Lands (DSL). The Eagle Crest Destination Resort is located near the northern portion of the subject property.
- G. PUBLIC COMMENTS:** Notice of this application was provided to all property owners who received the Certificate of Mailing of the Hearings Officer Decision issued on October 8, 2008, relating to M-07-2; MA-08-6.
- H. LAND USE HISTORY:** As described by staff, with minor edits, the Thornburgh Destination Resort has a long history. The conceptual master plan (CMP) application submitted by Thornburgh Resort Company, LLC (TRC) was denied by the Deschutes

County Hearings Officer in a decision dated November 9, 2005 (CU-05-20). That decision was appealed by Nunzie Gould (hereafter Gould) and Steve Munson (Munson) to the Deschutes County Board of Commissioners (Board). (A-05-16). By a decision dated May 10, 2006, the Board approved the CMP. Gould and Munson appealed the Board's decision to the Land Use Board of Appeals ("LUBA"). (Nos. 2006-100 and 101). LUBA remanded the Board's decision on May 14, 2007. *Gould v. Deschutes County*, 54 Or LUBA 2005 (2007). Opponent and Munson appealed LUBA's decision to the Court of Appeals seeking a broader remand scope. (A135856). On November 7, 2007, the Court of Appeals reversed and remanded LUBA's decision. *Gould v. Deschutes County*, 216 Or App 150, 171 P3d 1017 (2007). The result of this decision was that the Board's decision in CU-05-20 approving the CMP was remanded to the county for further proceedings.

On April 15, 2008 the Board issued its decision on remand again approving the CMP (Document No. 2008-151). Gould and Munson appealed the Board's decision to LUBA on May 6, 2008 (No. 2008-068). On September 11, 2008, LUBA affirmed the Board's decision. *Gould v. Deschutes County*, 57 Or LUBA 403 (2008). Opponent and Munson appealed LUBA's decision to the Court of Appeals (A140139). On April 22, 2009 the Court of Appeals affirmed LUBA's decision. *Gould v. Deschutes County*, 227 Or App 601, 206 P3d 1106 (2009). Gould and Munson appealed the Court of Appeals' decision to the Oregon Supreme Court (S057541). On October 9, 2009, the Supreme Court denied review. *Gould v. Deschutes County*, 347 Or 258, 218 P3d 540 (2009). On December 9, 2009 the Court of Appeals issued its appellate judgement. The result of these decisions was the CMP received final approval as of December 9, 2009.

Based on the Board's April 15 2009 decision approving the CMP for the Thornburgh Destination Resort, TRC submitted an amended application for approval of the final master plan (FMP) on April 21, 2008 (M-07/MA-08-6). By a decision dated October 8, 2008, the Hearings Officer approved the FMP. Gould and Munson appealed to the Board, who declined to hear it. Gould and Munson then appealed that decision to LUBA (No. 2008-203). On September 9, 2009 LUBA remanded the County's decision for further proceedings. *Gould v. Deschutes County*, 59 Or LUBA 435 (2009). The parties appealed LUBA's decision to the Court of Appeals (A143430). On February 24, 2010 the Court of Appeals affirmed LUBA's decision. *Gould v. Deschutes County*, 233 Or App 623, 227 P3d 759 (2010). LUBA issued its notice of appellate judgment on August 17, 2010 remanding the County's decision. On September 25, 2015, the FMP was initiated.

On November 1, 2011, TRC sought a declaratory ruling that the April 15, 2008 CMP had been timely initiated. The hearings officer found the CMP was timely initiated. The Board declined to exercise discretionary review and the opponent appealed to LUBA. On appeal, LUBA remanded that decision (LUBA No 2012-042, January 8, 2013). LUBA's decision was affirmed by the Court of Appeals, without opinion. *Gould v. Deschutes County*, 256 Or App 520, 301 P3d 978 (2013). On remand, the hearings officer found the CMP was not timely initiated. TRC appealed the hearings officer's decision to the Board, which issued a declaratory ruling that the April 15, 2008 CMP decision was "initiated" before the two-year deadline for doing so expired. Gould appealed the decision to LUBA. On appeal, LUBA remanded the declaratory ruling of the Board that a CMP for destination had been "initiated" within the county code's time limitations. (LUBA No 2015-080, January 30, 2015). Gould appealed to the Court of Appeals, contending that LUBA erred by deferring to the county's implausible interpretation of a code provision

that addressed whether a CMP had been "initiated." The Court reversed and remanded stating that the express language of the county code requires Defendant substantially exercise the permit conditions as a whole, and any failure to initiate development by fully complying with the conditions should not be the fault of the applicant, a determination of which must be based on more than just the complexity of the process. The Court also held that the County could not interpret the county code contrary to a prior LUBA order in this same litigation, as the lower tribunal was bound to follow the appellate court's ruling. *Gould v Deschutes County*, 272 Or App 666 (2015)

I. REVIEW PERIOD:

Deschutes County Code (DCC 22.34.030), states a final decision must be made within 90 days of the date the remand order becomes effective. The ninetieth (90th) day is December 24, 2015.

J. HEARING:

The hearing on remand was conducted on Oct. 20, 2015. At the outset, I stated that I had had no ex parte contacts and had not conducted a site visit. I offered an opportunity to object to my participation or to jurisdiction and none were received. Paul Dewey, counsel for Gould, raised several objections to the process and introduction of new evidence as discussed below. At the request of the opponents, I kept the record open to October 27, for any submittals, including evidence, responsive to the issues with an additional week to November 6, "for either party to submit a response to what was submitted during the first period." The applicant declined to grant an extension to the 90 day remand deadline. I was not as clear as I should have been about the scope of that response and there was disagreement among the parties. As I was unclear, I am accepting into the record all the submittals, subject to my ruling below regarding new evidence.

On November 10, I received a request from the applicant to reopen the record, including an offer to extend the 90 day deadline. I denied the request on Nov. 15, except for purposes of receiving the objections to the post-hearing submittals. On Nov. 16, I received Mr. Dewey's response, which similarly is received solely for purposes of responding to Ms. Fancher's objections.

On November 19, Mr. DeLashmutt submitted a letter following up on Ms. Fancher's request and Mr. Dewey's response, including objections to various submittals. That submittal was untimely and is not accepted for any purpose. On November 23, I received a "conditional" request from Ms. Fancher to reopen the record, expressly declining to toll the 90 day clock, and an email response from Mr. Dewey. That request also is denied.

III. SCOPE OF PROCEEDINGS ON REMAND

Incorporated herein are the staff findings from the staff report, my findings are labeled: Hearings Officer.

A. Title 22 of the Deschutes County Code, the Development Procedures Ordinance

Chapter 22.34, Proceedings on Remand

1. Section 22.34.010, Purpose

DCC 22.34 shall govern the procedures to be followed where a decision of the County has been remanded by LUBA or the appellate courts or a decision has been withdrawn by the County following an appeal to LUBA.

FINDINGS: This matter is before the Hearings Officer on remand from LUBA and the Court of Appeals. Therefore, the procedures in Chapter 22.34 are applicable.

2. Section 22.34.020, Hearings Body

The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the Board may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under DCC Title 22 to the Board, subject to the limitations set forth herein.

FINDINGS: The FMP was heard by a Hearings Officer. The Board of County Commissioners did not hear the appeal. A Hearings Officer under contract is reviewing this matter; therefore it is being processed properly.

3. Section 22.34.030, Notice and hearing Requirements

- A. The County shall conduct a hearing on any remanded or withdrawn decision, the scope of which shall be determined in accordance with the applicable provisions of DCC 22.34 and state law. Unless state law requires otherwise, only those persons who were parties to the proceedings before the County shall be entitled to notice and be entitled to participate in any hearing on remand.**
- B. The hearing procedures shall comply with the minimum requirements of state law and due process for hearings on remand and need comply with the requirements of DCC 22.24 only to the extent that such procedures are applicable to remand proceedings under state law.**
- C. A final decision shall be made within 90 days of the date the remand order becomes effective.**

FINDINGS: As discussed in the Findings of Fact above, written notices of the remand initiation request and public hearing were provided to the parties to the original FMP proceedings, and only those parties are allowed to participate in the hearing on remand. The procedures for the public hearing comply with the requirements for hearings in Chapter 22.24 of the county's development procedures ordinance. A final county decision on remand will be made within 90 days of the date the applicant requested initiation of the remand proceedings.

4. Section 22.34.040, Scope of Proceeding

- A. On remand, the Hearings Body shall review those issues that LUBA or the Court of Appeals required to be addressed. In addition, the Board shall have the discretion to reopen the record in instances in which it deems it to be appropriate.**
- B. At the Board's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application.**
- C. If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by the LUBA appeal or that were not appealed shall be deemed to be waived and may not be reopened.**

FINDINGS: The Hearings Officer will need to determine the scope of the remand proceedings as testimony will likely be received from others expressing disagreement. Determining the proper scope involves an examination of Land Use Board of Appeals (LUBA) and the Court of Appeals decisions.

Background

The Court of Appeals petition and cross-petition for judicial review arise from a LUBA decision that remanded Deschutes County's approval of the final master plan (FMP) for development of a destination resort by Thornburgh Resort Company, LLC (Thornburgh). The issues on review concern Thornburgh's fish and wildlife mitigation plans.

Thornburgh's wildlife management plan contains two components. The first addresses terrestrial wildlife and is described in the "Thornburgh Resort LLC Wildlife Mitigation Plan for Thornburgh Resort" ("Terrestrial WMP") and the "Off-Site Habitat Mitigation and Monitoring Plan for the Thornburgh Destination Resort Project," dated August 2008 ("M&M Plan"). The second component addresses off-site fish habitat and is described in the "Thornburgh Resort Fish and Wildlife Mitigation Plan Addendum Relating to Potential Impacts of Ground Water Withdrawals on Fish Habitat" ("Fish WMP") and an August 11, 2008, letter proposing additional mitigation for Whychus Creek.

After a public hearing, a county Hearings Officer approved the FMP with conditions. In proceedings before the county, as on appeal, significant portions of the argument focused on

Deschutes County Code (DCC) 18.113.070(D), sometimes referred to as the "no net loss" standard, which provides:

"In order to approve a destination resort, the Planning Director or Hearings Body shall find from substantial evidence in the record that:

"* * * * *

"D. Any negative impact on fish and wildlife resources will be completely mitigated so that there is no net loss or net degradation of the resource."

The Hearings Officer concluded that, although the standard is difficult to quantify, it "requires an analysis of species on the site, the likely impacts of development, and the applicant's plan to address those impacts. It does not require that each species be maintained or replaced with an equivalent species on a 1:1 or better ratio." The Hearings Officer went on to agree with Thornburgh's argument that "the modified Habitat Evaluation Procedures (HEP) analysis adequately quantifies the impacts and provides a workable methodology to compensate for the impact" and decided that Thornburgh had demonstrated that the mitigation plan was reasonably likely to succeed. The Hearings Officer concluded that Thornburgh's mitigation plan "is adequate to ensure that the impact of the development on fish and wildlife habitats results in no net loss" with a condition of approval requiring diversion of water to Whychus Creek, as discussed below.

LUBA Remand

After the Board of County Commissioners declined to hear Gould's appeal, Gould appealed to LUBA. LUBA rejected her challenges to the hearings officer's construction of DCC 18.113.070(D); sustained her challenge to the adequacy of the Terrestrial WMP and M&M Plan under Gould II; sustained her challenge to the sufficiency of the Hearings Officer's findings regarding the efficacy of mitigation of thermal impacts on Whychus Creek; rejected her challenges to the sufficiency of the other findings regarding fish mitigation; and rejected her challenge to the sufficiency of the evidence concerning "cool patches" in the Deschutes River.

Court of Appeals Petition for Judicial Review

Gould petitioned the Court of Appeals for judicial review.

Assignments of Error

Gould's First Assignment of Error

The Court of Appeals ruled that LUBA's order is not unlawful in substance.

Gould's Second Assignment of Error

The Court of Appeals ruled that LUBA did not err in concluding that the conditions of approval included compliance with the Fish WMP and the August 11, 2008, letter.

Gould's Third Assignment of Error

The Court of Appeals ruled the record does not support Gould's argument, and the Court rejected it without further discussion

Thornburgh's Cross-Petition for Judicial Review

On cross-petition, Thornburgh challenged LUBA's determination that the wildlife mitigation plan was not specific enough to meet the requirements of DCC 18.113.070(D) as interpreted by the Court in *Gould II*.

The Court of Appeals affirmed on Gould's petition and TRC's cross-petition, as discussed below.

Applicant's Remand Burden of Proof

The applicant submitted a twenty-three page burden of proof, which is attached with this Staff report. According to the applicant, there are three issues on remand. The first two issues were resolved by LUBA and were not appealed. The third issue was appealed to LUBA and was resolved by the Court of Appeals. The remaining issues are:

1. Correction of Typographical Error in FMP Approval
2. Correction of Finding regarding Evidence of Whychus Creek Mitigation
3. Adequacy of Terrestrial WMP and M&M Plan

Issue #1 – Correction of Typographical Error in FMP Approval

The hearings officer's FMP approval included a typographical error that LUBA found "the hearings officer should correct." Gould V at 464. The hearings officer erroneously referred to "developed recreational facilities" as "developed residential facilities" in Condition 33 of the FMP. The relevant part of Condition 33 should be revised as follows to comply with LUBA's order:

33. "The Resort shall, in the first phase, provide for the following:"

* * *

- D. At least \$2,000,000 (in 1984 dollars) shall be spent on developed residential recreational facilities.

Central Land and Cattle Company, LLC asks that the county correct Condition of Approval 33 to require that at least \$2,000,000 (in 1984 dollars) be spent on developed recreational facilities. This will address the issue as required by LUBA.

Issue #2 – Correction of Finding Regarding Evidence of Whychus Creek Mitigation

Central Land and Cattle Company, LLC asks that the hearings officer make additional findings that recognize and address the conflict in evidence related to impacts on the lower part of Whychus Creek from Thornburgh's use of groundwater and Thornburgh's proposed Whychus Creek mitigation and to explain why the mitigation water from the Three Sisters Irrigation District will address the hearings officer's concerns that summer water use by the resort could have adverse thermal impacts on Whychus Creek.

Issue #3 – Adequacy of Terrestrial WMP and M&M Plan

Central Land and Cattle Company, LLC requests that the Terrestrial WMP and M&M Plan be approved, with the exclusion of those provisions that provide for payments by Thornburgh to

ODFW for mitigation on lands other than BLM lands. This method of mitigation was rejected by the Oregon Court of Appeals and LUBA as causing the plan to be too uncertain to allow opponents to have an opportunity to confront the plan.

IV. Findings in Support of Decision.

A. Initiation and Prosecution of Remand

Gould objects to this remand proceeding on the grounds that it was not initiated by the proper person or entity and that the August 5, 2011 email was insufficient to initiate a remand. See e.g. Oct. 20, Nov. 6, letters from Paul D. Dewey. Central Oregon Land Watch also contends that Central Land and Cattle (CLCC) is not the successor in interest to Thornburgh Resort Co. (TRC). Oct. 20, 2015 letter.

On August 15, 2011, the County received an email from Kameron DeLashmutt stating that "Thornburgh Resort Company, LLC would like to initiate the remand process for the LUBA remand of Thornburgh's Final Master Plan as of today. This is LUBA case 2008-203." Ex. 'A' to Oct. 30 submittal from Liz Fancher. Counsel for CLCC argues that the email is sufficient and the only action required.

ORS 215.435 (1) provides that a county has 90 days to take final action on an application that had been remanded from LUBA. The 90 days clock does not begin until "the applicant requests in writing that the county proceed with the application on remand". ORS 215.435 (2). The statute seems fairly clear that, as counsel for CLCC argues, the remand is effectively self-executing or, perhaps, to the extent it is initiated, that is done by the entity to which the remand is issued. The "applicant" merely triggers the 90 day clock, which further supports the conclusion that state law does not require a land use application.

In any event, TRC was the applicant for the FMP approval remanded by LUBA, resulting in the present proceeding. Deschutes County Planning staff responded that an application and payment of a \$3000 fee was required to initiate the remand. The testimony was that this was objected to and it appears that the County relented, at least as to the application form, as no such application was submitted, but the County processed the remand request.

As Gould notes, DCC 22.08.010(B) requires that "applications for development or land use actions shall" be submitted by the owner or a person with written authorization of the owner. Gould also asserts that the application for remand was not complete under DCC 22.08.020. Deschutes County Code 22.34, however, states that it "shall govern the procedures to be followed where a decision of the County has been remanded..." Nothing in DCC 22.34 requires that an application be filed, nor have I been cited to any other provision requiring an application. See also, *Rutigliano v. Jackson County*, 47 Or LUBA 628 (2004) (local government proceedings on remand represent a continuation of the application, not a new application.).

Gould argues that CLCC is not the applicant of the FMP as "required by ORS 215.483" (which I take to mean ORS 215.435) and therefore could not initiate the remand. But CLCC did not initiate the running of the 90 day clock; that was done by Thornburgh Resort Co. LLC., which was the applicant for the FMP.

Gould also appears to assert that CLCC cannot pursue the remand. I could find nothing in which Gould asserted that CLCC is not or cannot be a party to the remand. Kameron DeLashmutt

asserts that he is the Manager of Thornburgh Resort Company (as well as Central Land and Cattle) and that TRC was administratively dissolved on Sept. 2, 2011, after the remand was initiated. He contends that it continues to exist for purposes of winding up its affairs pursuant to ORS 63.637(1). He also asserts that he was a party to the FMP process and that CLCC is acting on his behalf. Finally, although I could not locate it in the record, he states that pursuant to a memorandum of sale with Loyal Land, he is the agent of record for Loyal Land for all land use matters. Agnes DeLashmutt, the owner of TL 8000, also states that Kameron DeLashmutt is her agent of record for all land use matters. No contrary evidence or legal argument was asserted.

Further, Gary Underwood Sharff submitted an Oct. 28, letter stating that he is counsel of record for TRC. He states that all development rights held by TRC were transferred to Kameron DeLashmutt who in turn sold those rights to CLCC "including the FMP remand". As counsel for TRC, he asserts that CLCC "stands in the shoes of TRC".

Finally, it is worth noting that neither of the apparent owners, Loyal Land or Agnes DeLashmutt, nor the original FMP applicant, TRC, have objected to the remand proceeding or to CLCC (or Kameron DeLashmutt) representing that it is acting on their behalf.

I find that the remand was properly initiated and is properly before me for a decision on the record herein. The objection is denied.

B. Initiation of the CMP

Gould argues that this Final Master Plan (FMP) remand may not be initiated because the Concept Master Plan (CMP) on which it is based has "expired" due to not having been timely "initiated". Oct. 20, memo at 7. In *Gould v Deschutes County*, 272 Or App 666 (2015) (Gould X), the court stated that the CMP was approved on Oct. 15, 2008. The two-year limit on expiration of the CMP was November 11, 2011. It reversed the County's conclusion that the CMP had been initiated prior to that date. Under DCC a CMP is "initiated" if "the conditions of a permit or approval have been substantially exercised". DCC 22.36.010 B.1. provides that a land use permit is "void" if not initiated within two years. It is not clear if that decision has been appealed, counsel for the applicant simply states that "the case that addresses that issue is pending." CLCC Oct. 30 response at 3.

First, I find that DCC 22.34.040 A. controls and that this issue is beyond the scope of the issues that LUBA and the Court of Appeals "required to be addressed". I addressed the authority to initiate the remand only because it goes to authority to hear this matter. That is different from Gould's request that I rule on the validity of the FMP or its legal significance based on evidence that the CMP "expired". That is, in my view, essentially a collateral attack on the validity of the FMP which, as discussed below, has been affirmed with the exception of the remanded issues. It may be that, assuming my decision is appealed, the Board has authority to consider this collateral attack under the second sentence of DCC 22.34.040 B, and therefore could deny the FMP on grounds other than those that the Court of Appeals and LUBA "required to be addressed". I, however, do not have that authority.

Nevertheless, I will address the argument to avoid a remand for failing to do so if it is held that I erred in my conclusion as to my authority.

The relationship between the CMP and the FMP is complex. DCC 18.113.040 B states that the FMP must comply with the approved CMP. The CMP version at issue was approved by the County on April 15, 2008 and the approval ultimately was affirmed in *Gould v Deschutes County*, 227 Or App 601 (2009). (Gould IV) That approval properly deferred a determination of compliance with the fish and wildlife mitigation standards to the FMP (with a public hearing required).

Meanwhile, the FMP was approved on Oct. 8, 2008. That FMP approval was appealed. Gould argued before LUBA that "a complete and final CMP decision" is required before the county can grant FMP approval. Gould Petition for Review at 38. That argument appears to have been in the context of whether deferring the mitigation standards to the FMP was proper. LUBA rejected this assignment of error on the grounds that it either was made, or could have been made, in Gould's appeal of the county's second CMP decision. *Gould V* at 465. Gould apparently otherwise did not challenge the FMP approval on the grounds that it was improper or premature because the CMP was on appeal or had not been initiated. Nor did Gould contend that the FMP was not consistent with the CMP. In any event, the FMP approval was affirmed, except for the two issues present in this remand.

Thus, we have a CMP which is not effective, but which was properly structured to not have to address the issues present in this remand. We have an FMP that has been affirmed as being consistent with and containing all the required elements of the CMP, with the exception of the issues deferred to the FMP and remanded to this proceeding. The FMP was filed pursuant to a CMP that ultimately was affirmed. Under these circumstances, I conclude that the status of the CMP essentially is irrelevant, at least for purposes of this remand. Finally, I also adopt the reasoning of the Hearings Officer in the Oct 6, 2008 decision on this issue at page 4.

The objection is denied.

C. Correction of typographical Error in FMP Approval

LUBA identified an apparent typographical error in the FMP approval. *Gould V* at 464. No objection to this correction has been raised and the correct wording is evident. Accordingly Condition No. 33 of the Hearings Officer decision dated Oct. 6, 2008 is amended to read:

33. The Resort shall, in the first phase, provide for the following: ...

D. At least \$2,000,000 (in 1984 dollars) shall be spent on developed ~~residential-recreational~~ facilities.

D. Terrestrial Wildlife Management Plan (TWMP) and Off-Site Habitat Mitigation and Monitoring Plan (M&M Plan).

1. Remand:

DCC 18.113.070 provides, in relevant part, that: "In order to approve a destination resort, the Planning Director or Hearings Body shall find from substantial evidence in the record that: ...D. Any negative impact on fish and wildlife resources will be completely mitigated so that there is no net loss or net degradation of the resource..."

In *Gould V.*, LUBA denied several assignments of error challenging the methodology and other aspects of the TWMP and M&M Plan. It sustained other challenges, however, stating generally that it agreed with petitioner that the plans cannot constitute substantial evidence in support of

the finding of compliance with DCC 18.113.070(D) "until a number of unresolved factors are resolved" as part of a public hearing process. *Gould V* at 18. LUBA stated: "We do not know the location of the 4,501 acres that will be restored to provide the required mitigation....Until those 4,501 acres are located we cannot know what kind of habitat those 4,501 acres provide, and we cannot know what the beginning habitat value of those 4,501 acres is...do not know what particular mix of restoration techniques will be provided...do not know that habitat value of those 4,501 acres will be after restoration. We therefore cannot know if that restoration effort will result in the needed 8,474 HU's."

Citing the Court of Appeals' decision in *Gould II*, LUBA ultimately held that there are "simply too many remaining unknowns in the Terrestrial WMP and M&M Plan to allow petitioner a meaningful chance to confront the adequacy of that plan."

On appeal Thornburgh argued that, although the BLM could not legally commit itself to providing a specific location for mitigation, it was likely to do so and that was sufficient. Further, Thornburgh argued that "the strategy and monitoring process are sufficient to show that the mitigation plan is reasonably likely to succeed." 227 P.3d at 768. The court quoted the portions of the LUBA opinion noted above and then stated,

We do not understand LUBA to have concluded that, if the proposed mitigation approach outlined in the M&M Plan occurred on one of the three parcels of BLM land, there was a lack of substantial evidence that the Terrestrial WMP was likely and reasonably certain to succeed." ... If the only remaining uncertainty in Thornburgh's mitigation plan were which portion of BLM land would be the site of habitat restoration, we would conclude that LUBA erred in its application of *Gould*. ...

Here, the nature of the mitigation plan proposed for BLM land is clear...Thus, the adequacy of Thornburgh's mitigation efforts as they pertain to BLM land can be assessed now, based on the record as it exists. If some portion turns out to be unsuitable for mitigation or if some mitigation methods are inappropriate, those objections could be raised, and the county could deny approval of the FMP on that basis or could condition approval to address those objections.

LUBA also concluded, however, that it had not been determined whether Thornburgh's restoration efforts would in fact occur on BLM land.... Further, Thornburgh's back-up restoration plan of a dedicated fund for mitigation suffers from the same defects as the plan at issue in *Gould II*. In light of those uncertainties, we cannot conclude that LUBA erred.

CLCC focuses on the first and last sections quoted above for the proposition that it essentially only has to show on remand that the BLM sites are, in fact, available, since the court seemed to say that would satisfy the *Gould II* test. *Gould* focuses on the third paragraph quoted above, and the language in the LUBA decision, to argue that there now must be an assessment of the adequacy of the mitigation methods for the BLM lands in the CBRAP. If some portion of the land is unsuitable, the FMP must be denied or further conditioned.

2. Record.

Neither Gould, nor any other party, has objected to the consideration of new evidence as regards this issue. (Assuming timely filed as noted above) Dewey Oct. 20, memo at 6.

3. Discussion.

In an October 16, 2015 letter to Kameron DeLashmuth, the BLM confirmed that BLM has completed its Cline Buttes Recreation Area Plan. The purpose of the letter was to "communicate our intentions for coordinating wildlife mitigation needs as identified by Deschutes County in 2008". It appears to reaffirm the earlier MOU, and states that the Maston, Dry Canyon, Fryrear Canyon and Deep Canyon areas are each a "priority for wildlife management" and available for mitigation measures, especially juniper thinning and also for weed treatment. The total area consists of approx. 10,649 acres, although approximately 440 acres of the Maston area has been thinned in the interim. It also confirms that there are two wildlife watering sites currently available for Thornburgh Resort LLC to begin maintaining. Essentially the entire area is shown as deer and/or elk wildlife winter range. The Maston portion is primary a wildlife emphasis area, Deep Canyon is a secondary. See, Oct 19 email from BLM and related maps.

Although difficult to parse, my reading of the Court of Appeals language is that the mitigation plan is now specific enough to be used to "apply the approval standards in a meaningful way" to determine whether the plan is "likely and reasonably certain to succeed."

Previous decisions have upheld the use of the HEP approach and confirmed that it is appropriate to focus on habitat restoration/enhancement rather than each specific animal species. ODFW has advised that, "the wildlife mitigation plan, if followed as outlined, should address the mitigation requirements for Deschutes County." R. 126, R 1800. The Certified Wildlife Biologist for TetraTech opined that the "Thornburgh Project was held to the highest standard yet of any proposed resort in the County. It is my opinion that implementation of this Plan will completely mitigate for wildlife habitat impacts of the proposed project so that there is no net loss or net degradation of the resource... R 1897

The HEP approach resulted in a determination 8,474 HU's are needed to compensate for approximately 1000 acre of on-site habitat loss, requiring approximately 4498.7 acres of off-site enhancement. R. 732-744. This is less than one-half of the BLM area available for restoration. Modified HEP analysis, Aug. 5, 2008. This provides ample room to account for specific acreage that might for some reason be unavailable or less-desirable for enhancement.

In his August letter, Dr. Dobkin objected that extensive non-native seeding would occur. TetraTech responded that it anticipates little to no such seeding and that, to the extent used, it is a short-term measure to out-compete invasive species and give natives a chance to grow. Dobson states that mitigation benefits will be reduced greatly or nullified by livestock grazing. TetraTech responds that this conclusion is incorrect based on the Maston Allotment where grazing occurs and habitat conditions range from good to excellent, except where damaged from OHC use. R-130-131. BLM will be closing that area to OHC use. R415.

Weed management will be evaluated annually by ODFW and BLM and adjusted as necessary. The applicant will fund on-going weed management as long as the resort is operational. R 2620. Maintenance thinning of small junipers likewise will continue. LUBA Rec. 2621. The Report at R 2609-2629 dated April 15, 2008 details anticipated wildlife benefits from the proposed mitigation.

BLM indicates that the restoration funding provided by applicant may be able to be used as local "match" for grants, thereby multiplying the restoration impact. R415. The BLM now has adopted the Vegetation Management Alternative 2.1 (rather than the no action alternative), including requiring botanical, special status wildlife and cultural clearances for each specific site. Ex B to undated Fancher "Summary of Remaining Issues."

Based on the foregoing and other materials in the record, I find that the weight of the evidence supports the conclusion that the off-site wildlife mitigation measures to be implemented in the Cline Butte Recreation Area are "likely and reasonably certain to succeed." The most important dispute appears to center on methodology, with opponents wanting a more static or fixed point approach and the applicant, ODFW and BLM favoring the HEP iterative process approach. I agree with the applicant and the agencies, but note that success of that approach is dependent on the parties continuing to perform and to make the adjustments the ongoing process suggests. The plan calls for a re-assessment annually and projects moving to a maintenance mode in year five. There is evidence in the record that some other approved resorts have been less than successful in actually obtaining the wildlife enhancements or mitigation promised. Accordingly, I find the following condition of approval is appropriate:

During the fifth year after commencement of habitat restoration/mitigation activities conducted or funded by applicant on property within the Cline Butte Recreation Area, the applicant shall submit to Deschutes County a report evaluating the habitat mitigation. Within 90 days of receipt of the report, Deschutes County shall conduct a public hearing pursuant to Chapter 22.24 (as amended) for purposes of evaluating whether the habitat mitigation has substantially met the objectives set forth in the Terrestrial Wildlife Management Plan (TWMP) and Off-Site Habitat Mitigation and Monitoring Plan, including providing the quantity and quality of HUA's proposed. If not, the County may further condition the applicant to conduct or fund further habitat restoration/mitigation efforts as reasonably necessary to address any substantial nonconformance with the approved plans.

C. Impacts on Whychus Creek

1. Remand.

LUBA remanded the Oct. 8, 2008 hearings officer decision, "for additional findings to explain why the additional mitigation water from the Three Sisters Irrigation District will be sufficient to eliminate the hearings officer's concern that summer water use by the destination resort could have adverse thermal impacts on Whychus Creek."

In explaining this remand, LUBA concluded that the hearings officer must have found that the "less than .01 degree Celsius" impact was not so small as to permit it to be ignored." In doing so, however, the hearings officer did not "respond to petitioner's contention that the mitigation water will not mitigate the destination resort's thermal impacts on Whychus Creek because that mitigation will replace cool water with warmer water." Accordingly, the remand is "for additional findings to explain why the additional mitigation water... will be sufficient to eliminate the hearings officer's concern that summer water use by the destination resource could have adverse thermal impacts on Whychus Creek." LUBA suggested in footnote 13 that "some effort to clarify the expert's statement will likely be required."

2. Record

DCC 22.34.040 d. 'Scope of Proceeding' provides:

A. On remand the Hearings Body shall review those issues that LUBA or the Court of Appeals required to be addressed. In addition, the Board shall have the discretion to reopen the record in instances in which it deems it to be appropriate....

C. If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by the LUBA on appeal or that were not appealed shall be deemed to be waived and may not be reopened.

As noted previously, Gould acknowledged that new evidence was admissible pursuant to the LUBA remand regarding terrestrial mitigation. Gould, and others, however, objected to new evidence regarding Whychus Creek on the grounds that it exceeds the scope of the remand. They also suggested that, if new evidence is permitted, they should be able to introduce evidence of changed conditions in the intervening years.

The distinction between 'Hearings Body' and 'Board' in the DCC is clear. One may argue that whether the DCC should preclude the hearings officer from receiving new evidence if it is thought appropriate, particularly in light of the 90 day period in which to act on remand. But my role is to apply the DCC as written, accordingly, my analysis will be based solely on the evidence in the record on appeal, and argument at the hearing related to that evidence. All new evidence relating to the impact of the mitigation, and to changed conditions, is excluded.

3. Discussion.

It appears to me that the applicant seeks to expand the scope of the remand to include the beneficial impacts of increased flow on the upper reaches of Whychus Creek. There are numerous references in the record to the need to improve flows in Whychus Creek for fish habitat. It likely is incontrovertible that this will result in a significant benefit. It might be that, starting with a clean slate, the no net loss standard could be met by a finding that this overall benefit outweighs the .01d C increase, in the same way that off-site terrestrial mitigation may offset on-site impacts. But I could find nothing making that argument to the prior hearings officer and it does not appear to have been contemplated in the finding at issue. At the hearing, the applicant quoted a statement in the record that, "Thornburgh will slightly lower habitat quantity and quality of habitat below Alder Springs if it reduces ground water inputs and does so without improving upstream conditions for fish." But actual statement is that applicant is doing so without improving upstream conditions, i.e. perhaps supporting the conclusion that upstream mitigation outweighs the impacts on lower Whychus, but not stating that it directly mitigates the thermal impact in lower Whychus, which is the issue on remand. LUBA Rec. at 1105.

This is one example of how, to a great extent, the applicant appears to be hamstrung by LUBA's characterization of the finding. But the applicant did not appeal that reasoning in an attempt to give it more latitude or get a clear remand for new evidence. My reading of the finding, and LUBA's remand, is that I am to consider whether the additional water will mitigate the impact of the .01dC temperature increase on lower Whychus Creek, i.e. from the point that the Alder Springs water enters to its mouth.

The only expert testimony/opinion directly addressing this issue I could find in the LUBA record is the August 27, 2008 analysis by Yinger. LUBA Rec. at 312-14. He concludes that it will not mitigate the thermal impact as it replaces cold groundwater with "warm" water from upstream.

(my quotation marks). He asserts, and I think the record supports the conclusion that the cold groundwater discharge at Alder Springs is, at least to a fair extent, the "defining and essential factor" for fish – probably especially bull trout. He predicts a temperature increase of .12 d C "at Alder Springs". It is not clear whether this projected increase translates into warmer temperatures further down Whychus Creek but presumably that is his conclusion. Further, he contends that it would have negative impacts on the refugia. See also LUBA record at 1105, "the ecology of Whychus Creek is cold groundwater dependent." It is important to note in this regard that LUBA upheld the Hearings Officer's conclusion that the evidence satisfactorily addressed "cool patches" on the Deschutes, but LUBA expressly distinguished that from the potential impacts of the additional mitigation water on cool patches in Whychus Creek. LUBA at 28.

There is evidence in the record that the applicant's consultants considered it important to "acquire water rights from springs" to mitigate the "potential impact to springs and seeps" by "transferring cold, spring-fed flows" back into Deep Canyon. TetraTech memo, July 2, 2008, LUBA R at 1234. See also, Newton July 15, 2008 memo, LUBA R at 1251. Of course, I understand that this was in the context of their conclusion that such additions completely offset the impacts – but the Hearings Officer apparently did not entirely agree with that conclusion. ODFW apparently considers releases of stored water as a mitigation method for groundwater loss, but notes that as of the date of its general 5-Year Program Evaluation such an approach had not been tried. LUBA Rec. at 1272.

The applicant argues that, since Yinger overstated the amount of consumptive use, as LUBA appears to have concluded, the impact on Whychus is smaller than Yinger asserts. That appears to be correct, so arguably Yinger's finding of a .12dC increase after adding the upstream water is overstated. But it does not resolve for me the fact that the Hearings Officer also apparently agreed with the applicant on that point and still found that there was a .01dC impact that needed to be mitigated. Further, the applicant did not run the numbers with the reduced consumptive use in the prior record and any such evidence now would be new. The argument, while appropriate, does not provide evidence that the addition of upstream water directly mitigates temperature or addresses impacts on refugia.

There is evidence in the record that the water temperature upstream of is 14 dC. LUBA Rec.at 1566. The creek currently exceeds 18 dC from just above Sisters to Alder Springs. LUBA Rec. 1566, 1899. It appears logical that if diversions that reduce the amount of flow in Whychus Creek cause water temperatures to rise (Ryan Houston, LUBA Rec. 1903), elimination of diversions would cause it to drop, which, at least in theory, aids lower Whychus Creek temperatures, but the addition is more than 20 miles upstream in a creek that even with the added water is severely degraded and has low flows.

The applicant contends that one must assume that the Yinger analysis started with an assumption of 26.7 degrees, using his mass balance equation, to arrive at the impact he suggests. Fancher remand memo at fn. 15. The applicant concludes that the water temperature that is being added to the creek starts out at below 14 degrees and this is not hot water. The latter statement is true but since we do not know the temperature where it meets Alder Springs, it does not adequately address whether the .1Cd found to be problematic will be increased or decreased.

The bottom line is that the offer to increase flows in Whychus Creek was made too late, with too little evidentiary basis in light of Yinger's, admittedly cursory, contrary opinion. What is needed to solve this dilemma is the new evidence submitted at the hearing addressing the temperature

of the 106cfs added flow when it reaches the Alder Springs area and its resultant impact on lower Whychus Creek. Also needed, and not submitted, is evidence dealing with what, if any impact, this has on refugia or perhaps that the refugia would not be needed or needed as much.

Ultimately, given the constraints imposed by the LUBA remand and the DCC, I conclude that there is insufficient evidence in the record to conclude that the 106 cfs of added water to Whychus Creek offsets the .01dC and the possible impacts on refugia. For that reason, the application on remand must be denied.

Done and dated this 28th day of November, 2015

Dan R Olsen

Dan R. Olsen.
Deschutes County Hearings Officer.

November 30, 2015

Colleen Padilla
OEDA Secretary and Conference Planning Committee Chair

Subject: OEDA Annual Conference – October 2016

Dear Ms. Padilla,

On behalf of Deschutes County Board of County Commissioners, we offer our support to Economic Development for Central Oregon (EDCO) in its effort to host the Oregon Economic Development Association's Annual Conference in October 2016.

Central Oregon is experiencing incredible growth, both in population and in economic development as well. The diversity of businesses moving, starting and growing in Central Oregon is exciting. Part of the impetus for this growth is collaborative efforts among public and private entities, creating a supportive environment for entrepreneurial efforts.

The world renowned Sunriver Resort not only provides one of the most spectacular meeting venues in the Northwest, but offers outstanding conference facilities and an exceptional customer service oriented staff. We have no doubt that the combination of location, facilities and business ecosystem here would provide an excellent venue to host the Annual OEDA Conference. We would look forward to partnering with EDCO and OEDA to facilitate a spectacular conference.

Sincerely,

DESCHUTES COUNTY BOARD OF COMMISSIONERS

Anthony DeBone, Chair

Alan Unger

Tammy Baney