



Deschutes County Board of Commissioners
1300 NW Wall St., Suite 200, Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

AGENDA REQUEST & STAFF REPORT

For Board Business Meeting of December 28, 2015

DATE: December 15, 2015

FROM: Matthew Martin CDD 541-330-4620

TITLE OF AGENDA ITEM:

Consideration of Second Reading by Title Only and Adoption of:
Ordinances Nos. 2015-013 through 2015-018, Amending Deschutes County Code (DCC) Titles 9, 11, 17, 18, 22, and 23 to incorporate "housekeeping" changes that correct errors, incorporate changes to state law, and provide clarification of existing regulations, procedures, and policies.

PUBLIC HEARING ON THIS DATE? Yes

BACKGROUND AND POLICY IMPLICATIONS:

The Planning Division has compiled "housekeeping" text amendments based on experience with current code language. The amendments are an effort to correct noted errors, incorporate changes to state law, and provide clarification to existing land use regulations, procedures, and policies. These housekeeping amendments do not alter the permitted uses or use standards of the code. Additionally, no state statutes, rules, or land use goals apply to these changes. Six ordinances are required to make changes to DCC Titles 9, 11, 17, 18, 22, and 23.

The Board of County Commissioners held a public hearing and conducted first reading of these ordinances on December 9, 2015. The Board may conduct the second reading by title only of each ordinance since the second reading will be more than 13 days from the date of the first reading. It is expected that the adoption of the ordinances will be on the day of the second reading. The ordinances will become effective 90 days after adoption.

FISCAL IMPLICATIONS:

None.

RECOMMENDATION & ACTION REQUESTED:

MOTION 1: Move Second Readings by title only of Ordinances 2015-013 through 018.

MOTION 2: Move Adoption of Ordinances 2015-013 through 018.

ATTENDANCE: Matthew Martin and Legal Counsel

DISTRIBUTION OF DOCUMENTS:

Matt Martin, CDD and Legal



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/>

TO: Deschutes County Board of County Commissioners
FROM: Matthew Martin, Associate Planner
DATE: December 2, 2015
SUBJECT: Public Hearing on County Land Use File No. 247-15-000256-TA - text amendments to make "housekeeping" changes to the Deschutes County code.

I. SUMMARY

The Planning Division is bringing a package of text amendments to the Board of Commissioners (Board) for a public hearing on December 9, 2015. These amendments are necessary to correct errors, incorporate changes to state law, and provide clarification to existing provisions of the county code. Staff and the Planning Commission recommend approval.

II. BACKGROUND

The Planning Division has compiled "housekeeping" text amendments based on our experiences with the current code language. The amendments are an effort to correct noted errors and provide clarification to existing land use regulations and policies. These housekeeping amendments do not alter the permitted uses or use standards of the code. In addition, no state statutes, rules, or land use goals apply to these changes.

The County Planning Commission held a public hearing on July 9, 2015 to review the proposed amendments. Then, on August 13th, the Planning Commission voted unanimously to recommend approval of the proposed amendments to the Board. The Planning Commission also formally recommended the Board consider adding the provisions of HB 2830, legislation related to review of remands, to the proposed amendments. It was not included in the amendments considered by the Planning Commission because this new legislation was identified after the initial public hearing and inclusion would have required restarting the process with new notice and another public hearing.

III. SCHEDULE

The public hearing before the Board is scheduled for December 9, 2015. Staff recommends the Board:

- *Open the public hearing and take oral and written testimony; then*
- *Close the hearing, commence deliberations, and consider first reading of the ordinances.*

Attachments: Staff Report
Ordinance 2015-013
Ordinance 2015-014
Ordinance 2015-015
Ordinance 2015-016
Ordinance 2015-017
Ordinance 2015-018

Quality Services Performed with Pride



Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925
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Staff Report

FILE NUMBER: 247-15-000256-TA

APPLICANT: Deschutes County Community Development
117 NW Lafayette Avenue
Bend, Oregon 97701

PROPERTY OWNER: N/A

REQUEST: Text Amendments to clarify existing standards and procedural requirements, incorporate changes to state law, and to correct errors found in various sections of the Deschutes County Code.

STAFF CONTACT: Matthew Martin, AICP, Associate Planner

I. APPLICABLE CRITERIA:

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

A. **PROPOSAL:** The Planning Division determined minor changes were necessary to clarify existing standards and procedural requirements, incorporate changes to state law, and correct errors found in various sections of the Deschutes County Code (DCC). Staff initiated the proposed changes and notified the Oregon Department of Land Conservation and Development. The Deschutes County Board of County Commissioners will review the proposed changes at a public hearing on December 9, 2015.

III. CONCLUSIONARY FINDINGS:

A. **CHAPTER 22.12, LEGISLATIVE PROCEDURES**

1. Section 22.12.010.

Hearing Required

FINDING: This criterion will be met because a public hearing will be held before the Deschutes County Board of County Commissioners on December 9, 2015.

2. Section 22.12.020, Notice

Notice

A. Published Notice

1. **Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.**
2. **The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.**

FINDING: Notice of the public hearing before the Board of County Commissioners reviewing the proposed legislative changes was published in the Bend Bulletin newspaper on November 29, 2015. This criterion has been met.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Notice was posted in the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend. This criterion has been met.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice will be provided to the County public information official for wider media distribution. This criterion has been met.

3. Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division, which received a fee waiver. This criterion has been met.

4. Section 22.12.040. Hearings Body

- A. The following shall serve as hearings or review body for legislative changes in this order:**
1. **The Planning Commission.**
 2. **The Board of County Commissioners.**

B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.

FINDING: The Planning Commission held a public hearing on July 9, 2015, to review the proposed amendments. Then, on August 13, 2015, the Planning Commission voted unanimously to recommend approval of the proposed amendments as amended. These criteria have been met.

5. Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-15-000256-TA will be implemented by ordinances upon approval and adoption by the Board. This criterion will be met.

IV. PROPOSED TEXT AMENDMENTS:

The proposed text amendments are detailed in the referenced ordinance attached hereto with additional text identified by underline and deleted text by ~~strikethrough~~. Below are explanations of the proposed changes.

A. Title 9 of the Deschutes County Code:

Chapter 9.04. DRUG PARAPHERNALIA

In March of 2014, the Board of County Commissioners adopted an ordinance establishing a moratorium on the operation of any marijuana dispensary in any area subject to the jurisdiction of Deschutes County. This ordinance included a sunset May 1, 2015, repealing the moratorium. The proposed amendment removes the moratorium from the County code. ***(Ord. 2015-013 Exhibit A)***

B. Title 11, County Owned Land and Property:

**Chapter 11.12. TRANSFERABLE DEVELOPMENT CREDIT PROGRAM
Section 11.12.020. TDC Transactions.**

DCC 11.12.020(B)(3)(c) includes a typo incorrectly referring to DCC 11.12.010, Definitions, and not the appropriate section of DCC 11.12.020, TDC Transactions. The proposed amendment corrects the reference. ***(Ord. 2015-014 Exhibit A)***

C. Title 17, Subdivisions:

Table A Minimum Design Standards

Note #20 of the table references zones and standards for the La Pine Urban Unincorporated Community that are now within the city limits of La Pine and no longer under the jurisdiction of Deschutes County. The proposed amendments remove these references. ***(Ord. 2015-015 Exhibit A)***

D. Title 18, County Zoning:

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

Section 18.04.030. Definitions.

DCC 18.04.030 includes several definitions that are associated solely with the La Pine Neighborhood Planning Area that is now located entirely within the city limits of La Pine and no longer under the jurisdiction of Deschutes County. The proposed amendments delete these definitions from the code. **(Ord. 2015-016 Exhibit A)**

Chapter 18.18 EXCLUSIVE FARM USE ZONE

Section 18.16.040. Limitations on Conditional Uses.

DCC 18.16.040 currently only references conditional uses permitted in DCC 18.16.030. However, the conditional uses permitted under sections 18.16.031 and 18.16.033 are allowed either under Oregon Revised Statute (ORS) 215.283(2) or Oregon Administrative Rule (OAR) 660-033-0120 and also subject to ORS 215.296. The proposed amendment adds reference to DCC 18.16.031 and 18.16.033 for clarification. **(Ord. 2015-016 Exhibit B)**

Chapter 18.60 RURAL RESIDENTIAL ZONE – RR-10

Section 18.60.090. Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone.

The County Comprehensive Plan was updated and reformatted in 2011. The proposed amendment corrects this reference to reflect the format change and identifies the new section number. **(Ord. 2015-016 Exhibit C)**

Chapter 18.67. TUMALO RURAL COMMUNITY ZONING DISTRICTS

Section 18.67.080. Standards for All Districts.

DCC 18.67.080(G), river setback, currently only refers to structures located within 100-feet of the river and the requirement that a setback exception to the 100-foot setback shall be approved. Instead, this section should state the required setback is a minimum of 100-feet while also noting there is opportunity for an exception. The proposed amendment clarifies the standard. **(Ord. 2015-016 Exhibit D)**

Chapter 18.84. LANDSCAPE MANAGEMENT COMBINING - LM ZONE

Section 18.84.050. Use limitations.

As currently worded, this section requires that all substantial alterations, interior or exterior, requiring a building permit receive LM site plan approval. The regulation and review of interior alterations is not related to the purpose of the LM zone which is "...to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams." Staff believes this is an oversight from previous amendments that were not related to the interior alterations.

In Ordinance 91-20, Section 18.84.050, Use limitations, previously stated:

No structure, including agricultural buildings, shall be erected or substantially altered externally within one-quarter mile (measured at right angles from centerline of any identified landscape management roadway or within 200 feet of the ordinary [mean] high water mark of any identified landscape management corridor along a river) without first obtaining the approval of the Planning Director or Hearings Body. (emphasis added)

Then, Ordinance 92-034 amended 18.84.050 to its current wording which omitted the reference to exterior alterations. Exhibit “C” of Ordinance 92-034 summarizes the amendments noting, “Section 18.84.050 requires site plan review for structures within the LM zone, clarifies the amount of alteration allowed without site plan review and exempts structures which will not be and will remain invisible from a designated roadway, river, or stream from the provision of site plan review.” Staff concludes the omission of reference to exterior alterations was done in error.

This section also included a reference to DCC 18.124, Site Plan Review. However, DCC 18.124 is not applicable to the LM zone. The site plan review requirements and standards that are applicable to the LM zone are outlined in the Chapter 18.84. The proposed amendment removes this reference.

Section 18.84.080. Design Review

DCC 18.84.080(D) includes a typo in the reference to DCC18.84.090(E). The proposed amendment removes this error.

DCC 18.84.080(E) as currently worded erroneously exempts agricultural structures located at least 50 feet from a rimrock for the standards of DCC18.84.080, instead of the height limit of the section as intended. The proposed amendment corrects this error.

DCC 18.84.080(J) currently refers to Squaw Creek, the previous name of Whychus Creek. The proposed amendment corrects the name.

(Ord. 2015-016 Exhibit E)

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE - SUNRIVER

Section 18.108.055 Town Center – TC District

The County Comprehensive Plan was updated and reformatted in 2011. The proposed amendments correct this reference to reflect the format change and identify the new section number. ***(Ord. 2015-016 Exhibit F)***

Chapter 18.113. DESTINATION RESORTS ZONES - DR

Section 18.113.060. Standards for Destination Resorts.

Ordinance 2013-008 approved a ratio of 2.5:1 for residential units to overnight available in destination resorts. Section 18.113.060(A)(1)(b)(iv) was not previously updated to reflect this new standard. The proposed amendment makes the approved change to this section. ***(Ord. 2015-016 Exhibit G)***

Chapter 18.128. CONDITIONAL USE

Section 18.128.200. Cluster Development (Single-Family Residential Uses Only).

The County Comprehensive Plan was updated and reformatted in 2011. The proposed amendment corrects this reference to reflect the format change. *(Ord. 2015-016 Exhibit H)*

E. Title 22, Deschutes county Development Procedures Ordinances:

Chapter 22.08. GENERAL PROVISIONS

Section 22.08.010. Application Requirements.

The review of select land applications requires a hearings officer deposit for cost of services to be submitted as part of an application. Currently there is no reference to this deposit in the application requirements. The proposed amendment specifies that a hearings officer deposit shall be submitted or requested prior to deeming the application complete. *(Ord. 2015-017 Exhibit A)*

Chapter 22.28. LAND USE ACTION DECISIONS

Section 22.28.020. Notice of decision.

This section currently requires hearings body decisions be mailed to all parties. This can be and has been a considerable expense and may not be necessary given the availability of decisions online or upon request. Instead, the proposed amendment indicates notice of the decision will be sent to all parties. Decisions will continue to be available online or upon request. *(Ord. 2015-017 Exhibit B)*

Chapter 22.32. APPEALS

Section 22.32.015. Filing appeals.

DCC 22.32.015(D) specifies that appeal fees shall be paid by cash, check, money order, or purchase order for government agencies. This standard was added by Ord. 98-019 (TA98-6) to explicitly allow governmental agencies to pay for an appeal with a purchase order in addition to cash, check, or money order. Since the adoption of Ord. 98-019, the Community Development Department is now able to accept payments via credit card. Instead of adding credit cards to the list of payment options, the terminology is simplified to acknowledge all acceptable forms of payment.

Section 22.32.024. Transcript requirement.

DCC 22.32.024 currently requires an appellant to provide a complete transcript of for the appeal hearing. However, with the availability of audio and video recordings of hearings, such a transcript is not always necessary. Therefore, this change provides opportunity for the appeal hearings body to waive the requirement of providing a complete transcript.

(Ord. 2015-017 Exhibit C)

Chapter 22.34. PROCEEDINGS ON REMAND

Section 22.34.030. Notice and hearings requirements.

DCC 22.34.030 as written restricts the time period for a final decision for the Board on remand to within 90 days of the date the remand order becomes effective. This provides no

flexibility for the applicant to respond or extend this time period. The originally proposed amendment clarified this procedural requirement providing flexibility for an applicant.

After the public hearing before the Planning Commission reviewing the proposal, Staff became aware that the Oregon Legislature recently enacted House Bill (HB) 2830 amending the LUBA remand procedures. In summary, the amendment extends the 90-day review time period to 120-days upon request from the applicant that the county proceed with review. The amendment also provides opportunity for this time period to be extended an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. If the county does not receive the request to proceed from the applicant within 180 days of the effective date of the final order or the final resolution of the judicial review or if not resolved through mediation prior to the expiration of the 365-day extension, the county shall deem the application terminated.

Because this new information was provided after the public hearing, the Planning Commission did not include it in the recommended package of amendments. Instead, the Planning Commission recommended to Board of County Commissioners consider replacing the proposed amendment with the new language of HB 2830. The proposed amendment now reflects this legislation. **(Ord. 2015-017 Exhibit D)**

Chapter 22.36. LIMITATIONS ON APPROVALS
Section 22.36.010. Expiration of approval.

DCC 22.36.010(B)(4)(a) indicates the approval period for replacement dwellings in the EFU zone is for 4 years. However, recent amendments to ORS 215.417 removed replacement dwellings from the list of uses with 4 year approval periods. Instead, replacement dwellings are subject to the general 2 year approval period. The proposed amendment corrects this error. **(Ord. 2015-017 Exhibit E)**

F Title 23, Deschutes County Comprehensive Plan:

Chapter 4. URBAN GROWTH MANAGEMENT
Section 4.3 Unincorporated Communities/
Table 4.3.1 – Deschutes County Unincorporated Communities 2010

The narrative after the table notes the Community Plans for Tumalo and Terrebonne are in Sections 4.5 and 4.6, respectively. However, text amendments previously approved renumbered these Sections to 4.6 and 4.7. The proposed amendment corrects error. **(Ord. 2015-018 Exhibit B)**

APPENDIX C – TRANSPORTATION SYSTEM PLAN
Section 2.2 Existing Transportation System and Current Needs

The County TSP does not currently include a description of SE 27th Street, which forms portions of the southeast boundary of the city limits and urban growth boundary the City of Bend. Because portions of the road and property adjacent are located in areas under County jurisdiction, inclusion of the road on the TSP is warranted. The County Road Department road inventory identifies this segment of road as a rural arterial and the most recent traffic count in 2008 found 7,656 average daily trips (ADT). The proposed amendment adds SE 27th Street to the existing description of Baker Road and Knott Road because it is natural extension of the same corridor. **(Ord. 2015-018 Exhibit C)**

V. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments that make minor changes necessary to clarify existing standards and procedural requirements, incorporate changes to state law, and to correct errors.

Attachments: Ordinance 2015-013
Ordinance 2015-014
Ordinance 2015-015
Ordinance 2015-016
Ordinance 2015-017
Ordinance 2015-018

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance repealing Ordinance 2014-008.

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ORDINANCE NO. 2015-013

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000256-TA) to the Deschutes County Code (DCC) Title 9, Chapter 9.04, Drug Paraphernalia to incorporate “housekeeping” changes correct errors, incorporate changes to state law, and provide clarification of existing regulations, procedures, and policies; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on August 13, 2015 and forwarded to the Deschutes County Board of County Commissioners (“Board”), a recommendation to repeal Ordinance No. 2014-008; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 9, 2015, and concluded that the public will benefit from the proposed changes to Deschutes County Code (“DCC”) Title 9; now, therefore,

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

Section 1. REPEALED. DCC 9.04.040, Controlled Substances, is hereby repealed in its entirety.

///

Section 2. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit "E" and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: _____ day of _____, 2015.

Date of 2nd Reading: _____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: _____ day of _____, 2015.

Section 2. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit "E" and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: _____ day of _____, 2015.

Date of 2nd Reading: _____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: _____ day of _____, 2015.

Chapter 11.12. TRANSFERABLE DEVELOPMENT CREDIT PROGRAM

11.12.020. TDC Transactions.

- A. Sale of TDCs from the Sending Area. Either Section B or C shall be followed for the creation of TDCs,
- B. Restrictive Covenant
 - 1. The property owner or any other interested person shall request verification from the County that the subject property is eligible for a TDC.
 - 2. The Department shall send the property owner or interested person written verification confirming the number of TDCs the subject property is eligible for based on the criteria in DCC 11.12.030.
 - 3. Upon mutual agreement of a sale between the property owner and TDC purchaser, the following transactions shall occur:
 - a. The property owner shall provide a TDC Report to the Department.
 - b. If the TDC purchaser is other than the County then the property owner and TDC purchaser shall sign a TDC Contract form provided by the County.
 - c. Upon Department review and approval of the TDC Report and receipt of payment of the consideration in accordance with the County's agreement with the property owner or the TDC Contract pursuant to DCC 11.12.020(AB)(3)(b), the County shall prepare a Restrictive Covenant that restricts development on the subject property. This Restrictive Covenant shall be signed by the County and the property owner. The County shall record the Restrictive Covenant.
 - d. Contemporaneously with the recording of the Restrictive Covenant, County shall provide the TDC purchaser with documentation of the TDC purchase.
- C. PRC.
 - 1. The property owner or any other interested person shall request verification from the County that the subject property is eligible for a PRC.
 - 2. The Department shall provide the property owner or interested person written verification confirming the subject property is eligible for a PRC based on the criteria in DCC 11.12.030.
 - 3. The County shall grant a PRC to a developer in the Receiving Area if the developer provides one of the following:
 - a. A Retrofit, in cooperation with the property owner of a property eligible for a PRC, Existing Wastewater Treatment System and documentation submitted to the County that includes proof of ownership of the subject property, proof of consent of the property owner for the Retrofit, and final County inspection of the Retrofit; or
 - b. Payment into the County's Financial Assistance Fund the proportional cost established by Board of County Commissioner Resolution for a Retrofit. The County's fund shall be used to aid property owners in reducing the overall discharge of nitrogen into the basin groundwater of in south Deschutes County.
- D. Assignment of TDCs to the Receiving Area.
 - 1. The total number of required TDCs, including PRCs, applicable to a subdivision in the Receiving Area shall be established and made a condition of approval at the time of tentative plan approval.
 - 2. The tract or lot shall be located within the La Pine Neighborhood Planning Area in the La Pine Urban Unincorporated Community and be zoned Residential General or Residential Center. The Receiving Area is identified on a map prepared and maintained by the Department.
 - 3. TDCs shall be assigned to a lot or tract based on the Net Developable Acres at a rate approved by Board of County Commissioner resolution.
 - 4. PRCs shall be assigned to a tract at a rate established by Board of County Commissioner resolution.
 - 5. The Board may, by resolution, adjust the number of TDCs required per acre or alter the factors for which TDCs are required in the Receiving Area.
 - 6. At the time of final plat approval, any remaining required PRCs for the partition or subdivision shall be divided by the number of residential lots approved for the partition or subdivision.

7. The required PRCs and their cost for each lot shall be shown on the final plat.
8. Prior to issuance of a building permit for a residential lot in the Receiving Area, the Department must have payment of the required number of PRCs for that lot.

E. Non-Residential Districts. Where permitted under DCC 18.61.050, uses in non-residential districts in the Receiving Area do not require TDCs.

F. Right to Develop. If an owner of a lot or parcel of land eligible for a TDC chooses not to participate in the TDC program, the owner shall not be restricted from developing said lot or parcel in accordance with the applicable zoning standards in DCC Title 18, and any other applicable regulations, rules or standards.

| ([Ord. 2015-014 § 1, 2015](#); Ord. 2009-003 § 1, 2008; Ord. 2006-016 §1, 2006; Ord. 2004-007 §1, 2004; Ord. 2002-010 §1, 2002)

Section 2. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit "E" and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: _____ day of _____, 2015.

Date of 2nd Reading: _____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: _____ day of _____, 2015.

“****” Denotes portions of this Section not amended by Ordinance 2015-015.

Chapter 17.48. DESIGN AND CONSTRUCTION SPECIFICATIONS

Table A MINIMUM DESIGN STANDARDS

Notes:

- (1) Design shall be in accordance with Oregon Department of Transportation Design Standards.
- (2) Design shall be in accordance with AASHTO standards.
- (3) Pavement widths are variable, depending on such factors as anticipated traffic volumes, and whether the road section involves turn lanes, bike lanes, and whether frontage roads border an arterial or collector, etc.
- (4) The required base depth may be increased when a C.B.R., or R-value is required by the Road Department.
- (5) Cul-de-sac bulb to be constructed with a 45-foot minimum radius.
- (6) Increase in grade of 2 percent may be allowed in unusually steep areas.
- (7) No curb for rural frontage roads.
- (8) 20' allowed for cul-de-sac's and roads with low anticipated traffic volumes as long as separate multiple use paths are provided. 28' width required (including the required 4' striped shoulder bikeway in each direction) for circulator and primary subdivision access roads and other roads when separate multiple use paths are not provided.
- (9) The larger of the two widths is necessary if a shoulder bikeway is required (4' for collector and 5' for arterial).
- (10) 20' allowed for cul-de-sac's and roads with low anticipated traffic volumes. 24' width required for circulator and primary subdivision access roads.
- (11) Sidewalks required for new subdivisions and partitions, within Unincorporated Communities, that result in an average lot size of 11,000 square feet or less.
- (12) Widths are variable, but in no case shall a swale be less than 6 feet in width. Swales shall conform as much as practicable to DEQ best management practices for non-underground injection control (UIC) systems such as grassy or vegetated bioswales designed (sized) to mitigate anticipated storm water runoff.
- (13) Where drainage swales are not required, the standards for drainage in Title 17, Chapter 17.48 shall still apply.
- (14) 6-foot sidewalks required on both sides of Highway 97 between South 11th Avenue and Central Avenue intersections. Includes pedestrian crossing improvement at B Avenue and C Avenue intersection (see Terrebonne Comprehensive Plan Map D-3).
- (15) 5-foot curbless sidewalks with a drainage swale required on both sides of the road.
- (16) 5-foot curbless sidewalks with drainage swales required in Terrebonne from West 19th Street to 15th Street on the south side of C Avenue (see Terrebonne Comprehensive Plan Map D-3), or those roads in Tumalo designated for sidewalks (see Tumalo Comprehensive Plan Map D2).
- (17) 5-foot curbless sidewalks with drainage swales required along school frontage on B Avenue and 5th Street (see Terrebonne Comprehensive Plan Map D-3).
- (18) Where allowed, parking must be off pavement.
- (19) 40 feet immediately adjacent to arterial road, or 60 feet when frontage road is separated from arterial by private land.
- (20) In the ~~Neighborhood Commercial, Community Facility, Community Facility Limited and Residential Center~~ Districts, ~~where a paved multi-use path is not required in Figure 16 (Non-Motorized Plan) of Title 23,~~ sidewalks at least five feet wide shall be installed at the time of development. The sidewalks shall be property line tight and meet ADA accessibility requirements. ~~The sidewalks shall be connected to the required paths identified on Figure 16, the Non-Motorized Plan.~~
- (21) 10-foot sidewalks required on both sides of US Highway 97 between First/Reed and 6th Street intersections.
- (22) Rather than a continuous paved parking shoulder, parking in designated pullout areas can be provided along the collectors for access to open space, parks and residential lots.
- (23) The minimum width is 8 ft. However, 8 ft. wide multiuse paths are not recommended in most situations because they may become over-crowded. They should only be constructed as short connectors, or where long term usage is expected to be low, and with proper horizontal and vertical alignment to assure good sight distances. 10 ft is the standard width for a two-way multi-use path but they should be 12 ft wide in areas with high mixed-use. Optimum width should be based on the relative use by cyclists and pedestrians. High use by skaters may also require greater width.

Section 5. AMENDMENT. DCC 18.84.050, Use limitations, and DCC 18.84.080, Design review standards, are amended to read as described in Exhibit “E,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 6. AMENDMENT. DCC 18.108.055, Town Center, is amended to read as described in Exhibit “F,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 7. AMENDMENT. DCC 18.113.060, Standards for Destination Resorts, is amended to read as described in Exhibit “G,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 8. AMENDMENT. DCC 18.128.200, Cluster Development (Single-Family Residential Uses Only), is amended to read as described in Exhibit “H,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 9. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit “E” and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: _____ day of _____, 2015.

Date of 2nd Reading: _____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: _____ day of _____, 2015.

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.030. Definitions.

~~“Accessory dwelling” as applied in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area, means a complete dwelling unit either attached to or separate from the primary dwelling unit. An accessory dwelling may be no larger than 33 percent of the living area, excluding the garage, of the primary dwelling, or 800 square feet, whichever is less. Maximum height for a detached accessory dwelling is 24 feet.~~

~~“La Pine Collector Street” means a collector street in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area as depicted on the Neighborhood Planning Area Street Plan, Figure 15, in DCC 23.36.052, the Deschutes County Comprehensive Plan.~~

~~“La Pine central collector” means the collector street running north and south through the center of the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area. The generalized corridor location for the Central Collector is depicted on the Neighborhood Planning Area Street Plan, Figure 15, in DCC 23.36.052.~~

~~“Live/work dwelling” is a use permitted in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area, and Residential Center District in which a business may be operated on the ground floor. The ground floor commercial or office space has visibility, signage and access from the primary street. To preserve the pedestrian orientation of the commercial or office space, alley access is required for parking. The location of lots where live/work dwellings may be sited shall be specified on the subdivision plat. The live/work housing types are defined below:~~

~~A. Live/work house: A single family detached house with no more than 50 percent of the first story of the building available as commercial or office space.~~

~~B. Live/work town home: A residential, fee simple town home unit in which a business may be operated. The commercial or office portion of the building shall be limited to the ground floor and may not exceed 50 percent of the square footage of the entire building, excluding the garage.~~

~~“Neighborhood” means one of four areas in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area, as depicted on the Neighborhood Planning Area Neighborhood and Quadrant Plan, Figure 11, in DCC 23.36.052, the Deschutes County Comprehensive Plan. Each Neighborhood has a Residential Center District including a Neighborhood Park and is divided into Quadrants by neighborhood collector streets.~~

~~“Neighborhood commercial building” means a building located in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area, Residential Center District that does not exceed a total of 4,000 square feet of gross floor area and may contain retail, service, office, or food service establishment, excluding drive-through. A neighborhood commercial building is a stand-alone~~

~~commercial use to serve neighborhood needs. It is not intended to draw large numbers of patrons from outside of the neighborhood. The design of the building shall be residential in scale and character. Off street parking is limited to a maximum of one space per 500 square feet of building. Off street parking must be located at the side or rear of the building. The public entrance to the building shall be from the primary street frontage.~~

~~“Neighborhood park” means a public park located in the central area of each Neighborhood in the La Pine Neighborhood Planning Area. Neighborhood Park size ranges from two to five acres.~~

~~“Neighborhood quadrant” means one of the four sub areas in each of the four neighborhoods in the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area. The Quadrants are depicted on the Quadrant Plan, Figure 11, in DCC 23.36.052, the Deschutes County Comprehensive Plan.~~

~~“Open space buffer” means the open space designated on the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area Parks and Open Space Plan, Figure 17 in DCC 23.36.052, the Deschutes County Comprehensive Plan. The open space buffer provides space between the Neighborhoods and Highway 97, Huntington Road, Burgess Road and the existing subdivision adjacent to the La Pine Neighborhood Planning Area.~~

~~“Open space corridor” means the corridors designated on the La Pine Urban Unincorporated Community, La Pine Neighborhood Planning Area Parks and Open Space Plan, Figure 17 in DCC 23.36.052, the Deschutes County Comprehensive Plan. The open space corridors define the boundaries between the Neighborhoods and are the locations for paths in the non-motorized circulation network.~~

~~“Quadrant plan” means a development plan for a Neighborhood Quadrant in the La Pine Neighborhood Planning Area.~~

~~([Ord. 2015-016 §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 §1, 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)~~

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.16. EXCLUSIVE FARM USE ZONES

18.16.040. Limitations on Conditional Uses.

- A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296 ~~and~~, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body that the proposed use:
1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and
 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.

(Ord. 2015-016 §2, 2015; Ord. 2014-010 §1, 2014; Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2006-008 §3, 2006; Ord. 2004-001 §2, 2004; Ord. 98-030 §1, 1998; Ord. 95-075 §1, 1995; Ord. 95-007 §14, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §1 and 2, 1991; Ord. 91-020 §1, 1991; Ord. 91-011 §1, 1991)

Chapter 18.60. RURAL RESIDENTIAL ZONE - RR-10

18.60.090. Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone.

- A. Uses Permitted Outright. In the Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone, uses shall be permitted as follows, the following uses and their accessory uses are allowed outright:
 - a. Agricultural use as defined in DCC Title 18.
 - b. Propagation or harvesting of a forest product.
 - c. Ground application of treated effluent.
- B. Uses Permitted Subject to Site Plan Review. In the Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone, uses shall be permitted as follows, the following uses and their accessory uses are permitted subject to applicable provisions of DCC 18.116, Supplementary Provisions, and DCC 18.124, Site Plan Review:
 - a. Sewage Treatment Facility.
 - b. Treated Effluent Ponds.
- C. Uses Permitted Conditionally. In the Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone, Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B), and their accessory uses are permitted conditionally subject to the applicable provisions of DCC 18.128, Conditional Uses.
- D. Definitions. For the purpose of this section, the use Sewage Treatment Facility includes any buildings or structures associated with the operations of a sewer treatment plant including, but not limited to, treatment station or pump station.
- E. Special Conditions. Pursuant to ~~DCC-Deschutes County Comprehensive Plan~~ Section ~~23.120.170~~ 5.10, an application for site plan review to establish a sewage treatment facility must include a conservation easement and a plan of implementing the conservation easement that provides standards and implementation methods for managing the conservation easement, along with a recorded road maintenance agreement between Oregon Water Wonderland Unit 2 Sewer District and the Beaver Special Road District, with the site plan review application. The road maintenance agreement between the applicant and the Beaver Special Road District shall include Oregon Water Wonderland Unit 2 Sewer District's pro rata share for the maintenance cost of Foster Road through Section 25.

| (Ord. 2015-016 §3, 2015; Ord. 2010-016§1, 2010; Ord. 2003-012 §1, 2003).

Chapter 18.67. TUMALO RURAL COMMUNITY ZONING DISTRICTS

18.67.080. Standards for All Districts.

- A. Solar Setback. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.
- B. Building Code Setbacks. In addition to the setbacks set forth herein, any greater setbacks required by the applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- C. Off-Street Parking and Loading. Off-street parking and loading shall be provided subject to the applicable provisions of DCC 18.116.
- D. Lot Coverage. Except where otherwise noted, the primary and accessory buildings located on any lot or parcel shall not cover more than 30 percent of the total lot or parcel.
- E. Building Height. Except where otherwise indicated, no building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.
- F. Rimrock Setback. Setbacks from the rimrock are subject to the applicable provisions of DCC 18.116.160.
- G. River setback. All new structures or additions to existing structures ~~within~~ shall be set back a minimum of 100 feet from the ordinary high water mark of designated streams and rivers ~~are subject to the applicable provisions of~~ obtain a setback exception in accordance DCC 18.120.030. For the purpose of DCC 18.67.070, decks are considered part of a structure.

(Ord. 2015-016 §4, 2015; Ord. 97-033 §2, 1997)

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.84. LANDSCAPE MANAGEMENT COMBINING - LM ZONE

18.84.050. Use limitations.

- A. Any new structure or substantial exterior alteration of a structure requiring a building permit, an agricultural structure, within an LM Zone shall obtain site plan approval in accordance with ~~the~~ DCC 18.84 and DCC 18.124, Site Plan Review, prior to construction. As used in DCC 18.84 substantial exterior alteration consists of an alteration which exceeds 25 percent in the size or 25 percent of the assessed value of the structure.
- B. Structures which are not visible from the designated roadway, river or stream and which are assured of remaining not visible because of vegetation, topography or existing development are exempt from the provisions of DCC 18.84.080 (Design Review Standards) and DCC 18.84.090 (Setbacks). An applicant for site plan review in the LM Zone shall conform with the provisions of DCC 18.84, or may submit evidence that the proposed structure will not be visible from the designated road, river or stream. Structures not visible from the designated road, river or stream must meet setback standards of the underlying zone.
(Ord. 2015-016, §5, 2015; Ord. 2001-016, §2, 2001; Ord. 95-075 §3, 1995; Ord. 92-034 §2, 1992; Ord. 91-020 §1, 1991; Ord. 90-020 §1 1990; PL-15 1979)

18.84.080. Design review standards.

The following standards will be used to evaluate the proposed site plan:

- A. Except as necessary for construction of access roads, building pads, septic drainfields, public utility easements, parking areas, etc., the existing tree and shrub cover screening the development from the designated road, river, or stream shall be retained. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act, or agricultural use of the land.
- B. It is recommended that new structures and additions to existing structures be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site.
- C. No large areas, including roofs, shall be finished with white, bright or reflective materials. Roofing, including metal roofing, shall be nonreflective and of a color which blends with the surrounding vegetation and landscape. DCC 18.84.080 shall not apply to attached additions to structures lawfully in existence on April 8, 1992, unless substantial improvement to the roof of the existing structure occurs.
- D. Subject to applicable rimrock setback requirements or rimrock setback exception standards in DCC 18.84.090(E), all structures shall be sited to take advantage of existing vegetation, trees and topographic features in order to reduce visual impact as seen from the designated road, river or stream. When more than one nonagricultural structure is to exist and no vegetation, trees or topographic features exist which can reduce visual impact of the subject structure, such structure shall be clustered in a manner which reduces their visual impact as seen from the designated road, river, or stream.
- E. Structures shall not exceed 30 feet in height measured from the natural grade on the side(s) facing the road, river or stream. Within the LM Zone along a state scenic waterway or federal wild and scenic river, the height of a structure shall include chimneys, antennas, flag poles or other projections from the roof of the structure. DCC 18.84.080(E) shall not apply to agricultural structures located at least 50 feet from a rimrock.
- F. New residential or commercial driveway access to designated landscape management roads shall be consolidated wherever possible.

- G. New exterior lighting, including security lighting, shall be sited and shielded so that it is directed downward and is not directly visible from the designated road, river or stream.
 - H. The Planning Director or Hearings Body may require the establishment of introduced landscape material to screen the development, assure compatibility with existing vegetation, reduce glare, direct automobile and pedestrian circulation or enhance the overall appearance of the development while not interfering with the views of oncoming traffic at access points, or views of mountains, forests and other open and scenic areas as seen from the designated landscape management road, river or stream. Use of native species shall be encouraged. (Formerly section 18.84.080 (C))
 - I. No signs or other forms of outdoor advertising that are visible from a designated landscape management river or stream shall be permitted. Property protection signs (No Trespassing, No Hunting, etc.) are permitted.
 - J. A conservation easement as defined in DCC 18.04.280 "Conservation Easement" and specified in DCC 18.116.220 shall be required as a condition of approval for all landscape management site plans involving property adjacent to the Deschutes River, Crooked River, Fall River, Little Deschutes River, Spring River, ~~Squaw~~Whychus Creek and Tumalo Creek. Conservation easements required as a condition of landscape management site plans shall not require public access.
- (Ord. 2015-016, §5, 2015; Ord. 2001-016, §2, 2001; Ord. 97-068 §1, 1997; Ord. 95-075 §3, 1995; Ord. 93-043 §12A and 12B, 1993; Ord. 92-034 §2, 1992; Ord. 91-020 §1, 1991; Ord. 90-020 §1 1990; PL-15 1979)

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE – SUNRIVER

18.108.055 Town Center – TC District

K. Conceptual Site Plan.

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~~ Deschutes County Comprehensive Plan Section 4.5; and

- b. DCC 18.124.060 (A) - (E) and (I); interpreted as described in ~~DCC 23.40.025(E)(1)(d)(3)~~ Deschutes County Comprehensive Plan Policy 4.5.14.

(Ord. 2015-016 §6, 2015; Ord. 2015-004 §9, 2015; Ord. 2008-015 §2, 2008)

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.113. DESTINATION RESORTS ZONE - DR

18.113.060. Standards for Destination Resorts.

The following standards shall govern consideration of destination resorts:

- A. The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:
1. At least 150 separate rentable units for visitor-oriented overnight lodging as follows:
 - a. The first 50 overnight lodging units must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
 - b. The resort may elect to phase in the remaining 100 overnight lodging units as follows:
 - i. At least 50 of the remaining 100 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 5 years of the closure of sale of individual lots or units, and;
 - ii. The remaining 50 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the closure of sale of individual lots or units.
 - iii. If the developer of a resort guarantees a portion of the overnight lodging units required under subsection 18.113.060(A)(1)(b) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurance.
 - iv. The 2.5:1 accommodation ratio required by DCC 18.113.060(D)(2) must be maintained at all times.
 - c. If a resort does not chose to phase the overnight lodging units as described in 18.113.060(A)(1)(b), then the required 150 units of overnight lodging must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.

| (Ord. 2015-016 §7, 2015; Ord. 2013-008 §2, 2013; Ord. 2007-05 §2, 2007; Ord. 92-004 §13, 1992)

“****” Denotes portions of this Section not amended by Ordinance 2015-016.

Chapter 18.128. CONDITIONAL USE

18.128.200. Cluster Development (Single-Family Residential Uses Only).

B. The conditional use shall not be granted unless the following findings are made:

3. In the Wildlife Area Combining Zone, in addition to compliance with the WA zone development restrictions, uses and activities must be consistent with the required Wildlife Management Plan. The Plan shall be approved if it proposes all of the following in the required open space area:
 - a. Preserves, protects and enhances wildlife habitat for WA zone protected species as specified in the Deschutes County Comprehensive Plan (~~DCC Title 23~~); and

(Ord. 2015-016 §8, 2015; Ord. 2004-024 §2, 2004; Ord. 95-075 §1, 1995; Ord. 93-005 §11, 1993; Ord. 91-020 §1, 1991)

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code *
Title 22 to Incorporate "Housekeeping" Changes that * ORDINANCE NO. 2015-017
Correct Errors, Incorporate Changes to State Law, *
and Provide Clarification of Existing Regulations, *
Procedures, and Policies.

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000256-TA) to the Deschutes County Code (DCC) Title 22, Chapter 22.08, General Provisions; Chapter 22.28, Land Use Action Decisions; Chapter 22.32, Appeals; Chapter 22.34, Proceedings on Remand; and Chapter 22.36, Limitations on Approvals to incorporate “housekeeping” changes correct errors, incorporate changes to state law, and provide clarification of existing regulations, procedures, and policies; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on August 13, 2015 and forwarded to the Deschutes County Board of County Commissioners (“Board”), a recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 9, 2015, and concluded that the public will benefit from the proposed changes to Deschutes County Code (“DCC”) Title 22; now, therefore,

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

Section 1. AMENDMENT. DCC 22.08.010, Application Requirements, is amended to read as described in Exhibit “A,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDMENT. DCC 22.28.020, Notice of Decision, is amended to read as described in Exhibit “B,” attached hereto and by this referenced incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 3. AMENDMENT. DCC 22.32.015, Filing appeals, and DCC 22.32.024, Transcript Requirement, are amended to read as described in Exhibit “C,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 4. AMENDMENT. DCC 22.34.030, Notice and Hearings Requirements, is amended to read as described in Exhibit “D,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

///

Section 5. AMENDMENT. DCC 22.36.010, Expiration of Approval, is amended to read as described in Exhibit "E," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 6. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit "E" and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: _____ day of _____, 2015.

Date of 2nd Reading: _____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: _____ day of _____, 2015.

Chapter 22.08. GENERAL PROVISIONS

22.08.010. Application Requirements.

- A. Property Owner. For the purposes of DCC 22.08.010, the term "property owner" shall mean the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.
- B. Applications for development or land use actions shall:
 - 1. Be submitted by the property owner or a person who has written authorization from the property owner as defined herein to make the application;
 - 2. Be completed on a form prescribed by the Planning Director;
 - 3. Include supporting information required by the zoning ordinance and that information necessary to demonstrate compliance with applicable criteria; and
 - 4. Be accompanied by the appropriate filing fee, unless such fees are waived by the Board of County Commissioners.
 - 5. Include an affidavit attesting to the fact that the notice has been posted on the property in accordance with DCC 22.24.030(B).
- C. The following applications are not subject to the ownership requirement set forth in DCC 22.08.010(B)(1):
 - 1. Applications submitted by or on behalf of a public entity or public utility having the power of eminent domain with respect to the property subject to the application; or
 - 2. Applications for development proposals sited on lands owned by the state or the federal government.
- D. A deposit for hearings officers' fees may be requested at any time prior to the application being deemed complete and, if the application is heard by a hearings officer, the applicant will be responsible for the actual costs of the hearings officer.
(Ord. 2015-017 §1, 2015; Ord. 96-071 §1B, 1996; Ord. 95-045 §3, 1995; Ord. 90-077 §1, 1990)

Chapter 22.28. LAND USE ACTION DECISIONS

22.28.020. Notice of Decision.

~~A-Notice of a~~ Hearings Body's decision shall be in writing and mailed to all parties; however, one person may be designated by the Hearings Body to be the recipient of the notice of decision for a group, organization, group of petitioners or similar collection of individual participants.

~~(Ord. 2015-017 §2, 2015;~~ Ord. 90-007 §1, 1990)

“****” Denotes portions of this Section not amended by Ordinance 2015-017.

Chapter 22.32. APPEALS

22.32.015. Filing appeals.

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 5:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.
- C. If the Board of County Commissioners is the Hearings Body and the Board declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the County in reviewing the appeal. When the Board declines review and the decision is subsequently appealed to LUBA, the appeal fee may be applied toward the cost of preparing a transcript of the lower Hearings Body’s decision.
- D. The appeal fee shall be paid by method that is acceptable to Deschutes County~~by cash or check or money order, except that local, state or federal governmental agencies may supply a purchase order at the time of filing.~~

(Ord. 2015-017 §3, 2015; Ord. 99-031 §15, 1999; Ord. 98-019 §2, 1998; Ord. 96-071 §1G, 1996; Ord. 95-045 §32, 1995; Ord. 94-042 §2, 1994; Ord. 91-013 §11, 1991; Ord 90-007 §1, 1990)

22.32.024. Transcript Requirement.

- A. Except as otherwise provided in DCC 22.32.024, appellants shall provide a complete transcript of any hearing appealed from, from recorded magnetic tapes provided by the Planning Division.
- B. Appellants shall submit to the Planning Division the transcript no later than the close of the day five days prior to the date set for a de novo appeal hearing or, in on-the-record appeals, the date set for receipt of written arguments. Unless excused under DCC 22.32.024, an appellant's failure to provide a transcript shall cause the Board to decline to consider the appellant's appeal further and shall, upon notice mailed to the parties, cause the lower Hearings Body's decision to become final.
- C. An appellant shall be excused from providing a complete transcript if appellant was prevented from complying by: (1) the inability of the Planning Division to supply appellant with a magnetic tape or tapes of the prior proceeding; or (2) defects on the magnetic tape or tapes of the prior proceeding that make it not reasonably possible for applicant to supply a transcript. Appellants shall comply to the maximum extent reasonably and practicably possible.
- D. Notwithstanding any other provisions in DCC 22.32, the appeal hearings body may, at any time, waive the requirement that the appellant provide a complete transcript for the appeal hearing.

(Ord. 2015-017 §3, 2015; Ord. 96-071 §1G, 1996)

Chapter 22.34. PROCEEDINGS ON REMAND

22.34.030. Notice and Hearings 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 90-120 days of the date the ~~remand order becomes effective~~ applicant initiates the remand in accordance with state law.
 - D. In addition to the requirements of subsection (C) of this section, the 120-day period established under subsection (C) of this section shall not begin until the applicant requests in writing that the county proceed with the application on remand, but if the county does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the county shall deem the application terminated.
 - E. The 120-day period established under subsection (C) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The county shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.
- (Ord. 2015-017 §4, 2015; Ord. 99-031 §17, 1999; Ord. 95-045 §§39 and 41A, 1995)

“****” Denotes portions of this Section not amended by Ordinance 2015-017.

Chapter 22.36. LIMITATIONS ON APPROVALS

22.36.010. Expiration of Approval.

A. Scope.

1. Except as otherwise provided herein, DCC 22.36.010 shall apply to and describe the duration of all approvals of land use permits provided for under the Deschutes County Land Use Procedures Ordinance, the various zoning ordinances administered by Deschutes County and the subdivision/partition ordinance.
2. DCC 22.36.010 does not apply to:
 - a. Those determinations made by declaratory ruling, such as verifications of nonconforming uses, lot of record determinations and expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.
 - b. Temporary use permits of all kinds, which shall be governed by applicable ordinance provisions specifying the duration of such permits.
 - c. Quasi-judicial map changes.

B. Duration of Approvals.

1. Except as otherwise provided under DCC 22.36.010 or under applicable zoning ordinance provisions, a land use permit is void two years after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.
2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after two years from the date of preliminary approval, unless the final plat has been submitted to the Planning Division for final approval within that time period, an extension is sought under DCC 22.36.010 or the preliminary plat or master plan approval has been initiated as defined herein.
3. In cases of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within the time specified in the approval, or initiated within two years of completion of the prior phase if no timetable is specified.
4. The approval period for the following dwellings in the Exclusive Farm Use and Forest Use Zones is for 4 years:
 - ~~a.~~ Replacement dwelling
 - ~~b.~~ Nonfarm dwelling
 - ~~c.~~ Lot of record dwelling
 - ~~d.~~ Large tract dwelling
 - ~~e.~~ Template dwelling.

(Ord. 2015-017 §5, 2015; Ord. 2011-016, 2011; Ord. 2004-001 §4, 2004; Ord. 95-045 §43A, 1995; Ord. 95-018 §1, 1995; Ord. 90-007 §1, 1990)

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 23 and the Deschutes County Comprehensive Plan to Incorporate "Housekeeping" Changes that Correct Errors, Incorporate Changes to State Law, and Provide Clarification of Existing Regulations, Procedures, and Policies. *
*
*
*
ORDINANCE NO. 2015-018

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000256-TA) to the Deschutes County Comprehensive Plan Chapter 4, Urban Growth Management, and Appendix "C," Transportation System Plan to incorporate "housekeeping" changes correct errors, incorporate changes to state law, and provide clarification of existing regulations, procedures, and policies; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on August 13, 2015 and forwarded to the Deschutes County Board of County Commissioners ("Board"), a recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 9, 2015, and concluded that the public will benefit from the proposed changes to the Deschutes County Comprehensive Plan and Deschutes County Code ("DCC") Title 23; now, therefore,

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

Section 1. AMENDMENT. DCC 23.01.010, Introduction, is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 2. AMENDMENT. Deschutes County Comprehensive Plan Chapter 4, Urban Growth Management, is amended to read as described in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 3. AMENDMENT Deschutes County Comprehensive Plan Appendix "C," Transportation System Plan, is amended to read as described in Exhibit "C," attached hereto and by this referenced incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Chapter 5, Supplementary Sections, is amended to read as described in Exhibit "D," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~striketrough~~.

///

Section 5. FINDINGS. The Board adopts as its findings in support of this decision attached to Ordinance 2015-018 as Exhibit "E" and incorporated by reference herein.

Dated this _____ of _____, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ALAN UNGER, Vice Chair

ATTEST:

Recording Secretary

TAMMY BANEY, Commissioner

Date of 1st Reading: ____ day of _____, 2015.

Date of 2nd Reading: ____ day of _____, 2015.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Tammy Baney	___	___	___	___
Anthony DeBone	___	___	___	___
Alan Unger	___	___	___	___

Effective date: ____ day of _____, 2015.

Chapter 23.01 COMPREHENSIVE PLAN

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
(Ord. 2015-018 § 1, 2015; Ord. 2015-021 § 1, 2015; Ord. 2014-027 § 1, 2014; Ord. 2014-021 § 1, 2014; Ord. 2014-12 § 1, 2014; Ord. 2014-006 § 2, 2014; Ord. 2014-005 § 2, 2014; Ord. 2013-012 § 2, 2013; Ord. 2013-009 § 2, 2013; Ord. 2013-007 § 1, 2013; Ord. 2013-002 § 1, 2013; Ord. 2013-001 § 1, 2013; Ord. 2012-016 § 1, 2012; Ord. 2012-013 § 1, 2012; Ord. 2012-005 § 1, 2012; Ord. 2011-027 § 1 through 12, 2011; Ord. 2011-017 repealed; Ord. 2011-003 § 3, 2011)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/complan>)

“***” Denotes portions of this Section not amended by Ordinance 2015-018.

Deschutes County Comprehensive Plan

Section 4.3 Unincorporated Communities

Table 4.3.1 – Deschutes County Unincorporated Communities 2010

Community	Type	Approval Date
Sunriver	Urban Unincorporated Community	1997
Terrebonne	Rural Community	1997
Tumalo	Rural Community	1997
Black Butte Ranch	Resort Community	2001
Inn of the 7 th Mountain/ Widgi Creek	Resort Community	2001
Alfalfa	Rural Service Center	2002
Brothers	Rural Service Center	2002
Hampton	Rural Service Center	2002
Millican	Rural Service Center	2002
Whistlestop	Rural Service Center	2002
Wildhunt	Rural Service Center	2002

Source: Deschutes County Planning Division

The policies for unincorporated communities are based on extensive, relatively recent public input and are for the most part still relevant as of 2010. Consequently, only minor changes have been made to those sections of this Plan. The exceptions are the Community Plans for Tumalo and Terrebonne which are being adopted separately. These have been incorporated into this plan as Sections 4.56 and 4.67.

“****” Denotes portions of this Section not amended by Ordinance 2015-018.

2.2 Existing Transportation System and Current Needs

Rural Arterials

Baker Road/Knott Road/ SE 27th Street

These roads connect to the US 97 Baker Road interchange at the far south end of Bend. Baker Road provides access to the Deschutes River Woods neighborhoods just south of Bend and then connects to Brookwood Boulevard, Bend’s west side ring road. Knott Road provides access to the Deschutes County Landfill before turning north and becoming SE 27th Street. The Knott/27th combination is the ring road for Bend’s east side. SE 27th Street continues north into the City of Bend, where this County arterial becomes a City arterial north of Diamond Back Lane. Some travelers use a routing of Knott and Rickard Road to reach US 20 to avoid the congestion of 27th Street, which also intersect US 20 in east-central Bend

Baker Road

2009 traffic volumes

- 0.10 miles west of Cinder Butte Road 6,174 ADT
- 0.10 miles west of US 97 8,404 ADT

Knott Road

2009 traffic volumes

- 0.10 miles east of US 97 6,269 ADT
- 0.20 miles east of 15th St. (Bend) 6,508 ADT

2008 traffic volumes

- 0.25 miles west of 27th St. (Bend) 6,039 ADT

SE 27th Street

2008 traffic volumes

- 0.10 miles south of Diamond Back Ln 7,656 ADT

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.11.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
<u>2015-018</u>	<u>12-9-15/3-27-16</u>	<u>23.01.010, 2.2, 4.3</u>	<u>Housekeeping Amendments to Title 23.</u>

FINDINGS

I. APPLICABLE CRITERIA:

Title 22, Deschutes County Development Procedures Ordinance

II. BASIC FINDINGS:

- A. **PROPOSAL:** The Planning Division determined minor changes were necessary to clarify existing standards and procedural requirements, incorporated changes to state law, and correct errors found in various sections of the Deschutes County Code (DCC). Staff initiated the proposed changes and notified the Oregon Department of Land Conservation and Development. The Deschutes County Board of County Commissioners will review the proposed changes on December 9, 2015.

III. CONCLUSIONARY FINDINGS:

A. CHAPTER 22.12, LEGISLATIVE PROCEDURES

1. Section 22.12.010.

Hearing Required

FINDING: The applicant meets this criterion because a public hearing will be held before the Deschutes County Board of County Commissioners on December 9, 2015.

2. Section 22.12.020, Notice

Notice

A. Published Notice

1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.

2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

FINDING: Notice of proposed legislative changes was published in the Bend Bulletin newspaper on November 29, 2015. This criterion has been met.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Notice was posted in the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend. This criterion has been met.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent. This criterion has been met.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice will be provided to the County public information official for wider media distribution. This criterion has been met.

3. Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division, which received a fee waiver. This criterion has been met.

4. Section 22.12.040. Hearings Body

A. The following shall serve as hearings or review body for legislative changes in this order:

1. The Planning Commission.

2. The Board of County Commissioners.

B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.

FINDING: The Planning Commission held a public hearing on July 9, 2015, to review the proposed amendments. Then, on August 13, 2015, the Planning Commission voted unanimously to recommend approval of the proposed amendments as amended. These criteria have been met.

5. Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-15-000256-TA will be implemented by ordinances upon approval and adoption by the Board; this criterion will be met.

IV. PROPOSED TEXT AMENDMENTS:

The text amendments are detailed in the corresponding and referenced ordinance attached hereto with additional text identified by underline and deleted text by ~~strikethrough~~. Below are explanations of the changes.

A. Title 9 of the Deschutes County Code:

Chapter 9.04. DRUG PARAPHERNALIA

In March of 2014, the Board adopted an ordinance establishing a moratorium on the operation of any marijuana dispensary in any area subject to the jurisdiction of Deschutes

County. This ordinance included a sunset May 1, 2015, repealing the moratorium. The amendment removes the moratorium from the County code. **(Ord. 2015-013 Exhibit A)**

B. Title 11, County Owned Land and Property:

Chapter 11.12. TRANSFERABLE DEVELOPMENT CREDIT PROGRAM

Section 11.12.020. TDC Transactions.

DCC 11.12.020(B)(3)(c) includes a typo incorrectly referring to DCC 11.12.010, Definitions, and not the appropriate section of DCC 11.12.020, TDC Transactions. The amendment corrects the reference. **(Ord. 2015-014 Exhibit A)**

C. Title 17, Subdivisions:

Table A Minimum Design Standards

Note #20 of the table references zones and standards for the La Pine Urban Unincorporated Community that are now within the city limits of La Pine and no longer under the jurisdiction of Deschutes County. The amendments remove these references. **(Ord. 2015-015 Exhibit A)**

D. Title 18, County Zoning:

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

Section 18.04.030. Definitions.

DCC 18.04.030 includes several definitions that are associated solely with the La Pine Neighborhood Planning Area that is now located entirely within the city limits of La Pine and no longer under the jurisdiction of Deschutes County. The amendments delete these definitions from the code. **(Ord. 2015-016 Exhibit A)**

Chapter 18.18 EXCLUSIVE FARM USE ZONE

Section 18.16.040. Limitations on Conditional Uses.

DCC 18.16.040 currently only references conditional uses permitted in DCC 18.16.030. However, the conditional uses permitted under sections 18.16.031 and 18.16.033 are allowed either under Oregon Revised Statute (ORS) 215.283(2) or Oregon Administrative Rule (OAR) 660-033-0120 and also subject to ORS 215.296. The amendment adds reference to DCC 18.16.031 and 18.16.033 for clarification. **(Ord. 2015-016 Exhibit B)**

Chapter 18.60 RURAL RESIDENTIAL ZONE – RR-10

Section 18.60.090. Oregon Water Wonderland Unit 2 Sewer District Limited Use Combining Zone.

The County Comprehensive Plan was updated and reformatted in 2011. The amendment corrects this reference to reflect the format change and identifies the new section number. **(Ord. 2015-016 Exhibit C)**

Chapter 18.67. TUMALO RURAL COMMUNITY ZONING DISTRICTS

Section 18.67.080. Standards for All Districts.

DCC 18.67.080(G), river setback, currently only refers to structures located within 100-feet of the river and the requirement that a setback exception to the 100-foot setback shall be approved. Instead, this section should state the required setback is a minimum of 100-feet while also noting there is opportunity for an exception. The amendment clarifies the standard. *(Ord. 2015-016 Exhibit D)*

Chapter 18.84. LANDSCAPE MANAGEMENT COMBINING - LM ZONE

Section 18.84.050. Use limitations.

As currently worded, this section requires that all substantial alterations, interior or exterior, requiring a building permit receive LM site plan approval. The regulation and review of interior alterations is not related to the purpose of the LM zone which is "...to maintain scenic and natural resources of the designated areas and to maintain and enhance scenic vistas and natural landscapes as seen from designated roads, rivers, or streams." Staff believes this is an oversight from previous amendments that were not related to the interior alterations.

In Ordinance 91-20, Section 18.84.050, Use limitations, previously stated:

No structure, including agricultural buildings, shall be erected or substantially altered externally within one-quarter mile (measured at right angles from centerline of any identified landscape management roadway or within 200 feet of the ordinary [mean] high water mark of any identified landscape management corridor along a river) without first obtaining the approval of the Planning Director or Hearings Body. (emphasis added)

Then, Ordinance 92-034 amended 18.84.050 to its current wording which omitted the reference to exterior alterations. Exhibit "C" of Ordinance 92-034 summarizes the amendments noting, "Section 18.84.050 requires site plan review for structures within the LM zone, clarifies the amount of alteration allowed without site plan review and exempts structures which will not be and will remain invisible from a designated roadway, river, or stream from the provision of site plan review." Staff concludes the omission of reference to exterior alterations was done in error.

This section also included a reference to DCC 18.124, Site Plan Review. However, DCC 18.124 is not applicable to the LM zone. The site plan review requirements and standards that are applicable to the LM zone are outlined in the Chapter 18.84. The amendment removes this reference.

Section 18.84.080. Design Review

DCC 18.84.080(D) includes a typo in the reference to DCC18.84.090(E). The amendment removes this error.

DCC 18.84.080(E) as currently worded erroneously exempts agricultural structures located at least 50 feet from a rimrock for the standards of DCC18.84.080, instead of the height limit of the section as intended. The amendment corrects this error.

DCC 18.84.080(J) currently refers to Squaw Creek, the previous name of Whychus Creek. The amendment corrects the name.

(Ord. 2015-016 Exhibit E)

Chapter 18.108. URBAN UNINCORPORATED COMMUNITY ZONE - SUNRIVER
Section 18.108.055 Town Center – TC District

The County Comprehensive Plan was updated and reformatted in 2011. The amendments correct this reference to reflect the format change and identify the new section number.
(Ord. 2015-016 Exhibit F)

Chapter 18.113. DESTINATION RESORTS ZONES - DR
Section 18.113.060. Standards for Destination Resorts.

Ordinance 2013-008 approved a ratio of 2.5:1 for residential units to overnight available in destination resorts. Section 18.113.060(A)(1)(b)(iv) was not previously updated to reflect this new standard. The amendment makes the approved change to this section. *(Ord. 2015-016 Exhibit G)*

Chapter 18.128. CONDITIONAL USE
Section 18.128.200. Cluster Development (Single-Family Residential Uses Only).

The County Comprehensive Plan was updated and reformatted in 2011. The amendment corrects this reference to reflect the format change. *(Ord. 2015-016 Exhibit H)*

E. Title 22, Deschutes county Development Procedures Ordinances:

Chapter 22.08. GENERAL PROVISIONS
Section 22.08.010. Application Requirements.

The review of select land applications requires a hearings officer deposit for cost of services to be submitted as part of an application. Currently there is no reference to this deposit in the application requirements. The amendment specifies that a hearings officer deposit shall be submitted or requested prior to deeming the application complete. *(Ord. 2015-017 Exhibit A)*

Chapter 22.28. LAND USE ACTION DECISIONS
Section 22.28.020. Notice of decision.

This section currently requires hearings body decisions be mailed to all parties. This can be and has been a considerable expense and may not be necessary given the availability of decisions online or upon request. Instead, the amendment indicates notice of the decision will be sent to all parties. Decisions will continue to be available online or upon request. *(Ord. 2015-017 Exhibit B)*

Chapter 22.32. APPEALS
Section 22.32.015. Filing appeals.

DCC 22.32.015(D) specifies that appeal fees shall be paid by cash, check, money order, or purchase order for government agencies. This standard was added by Ord. 98-019 (TA98-

6) to explicitly allow governmental agencies to pay for an appeal with a purchase order in addition to cash, check, or money order. Since the adoption of Ord. 98-019, the Community Development Department is now able to accept payments via credit card. Instead of adding credit cards to the list of payment options, the terminology is simplified to acknowledge all acceptable forms of payment.

Section 22.32.024. Transcript requirement.

DCC 22.32.024 currently requires an appellant to provide a complete transcript of for the appeal hearing. However, with the availability of audio and video recordings of hearings, such a transcript is not always necessary. Therefore, this change provides opportunity for the appeal hearings body to waive the requirement of providing a complete transcript.

(Ord. 2015-017 Exhibit C)

Chapter 22.34. PROCEEDINGS ON REMAND

Section 22.34.030. Notice and hearings requirements.

Oregon Legislature enacted House Bill (HB) 2830 amending the LUBA remand procedures. In summary, the amendment extends the 90-day review time period to 120-days upon request from the applicant that the county proceed with review. The amendment also provides opportunity for this time period to be extended an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. If the county does not receive the request to proceed from the applicant within 180 days of the effective date of the final order or the final resolution of the judicial review or if not resolved through mediation prior to the expiration of the 365-day extension, the county shall deem the application terminated. The amendment reflects this legislation. *(Ord. 2015-017 Exhibit D)*

Chapter 22.36. LIMITATIONS ON APPROVALS

Section 22.36.010. Expiration of approval.

DCC 22.36.010(B)(4)(a) indicates the approval period for replacement dwellings in the EFU zone is for 4 years. However, recent amendments to ORS 215.417 removed replacement dwellings from the list of uses with 4 year approval periods. Instead, replacement dwellings are subject to the general 2 year approval period. The amendment corrects this error. *(Ord. 2015-017 Exhibit E)*

F. Title 23, Deschutes County Comprehensive Plan:

Chapter 4. URBAN GROWTH MANAGEMENT

Section 4.3 Unincorporated Communities/

Table 4.3.1 – Deschutes County Unincorporated Communities 2010

The narrative after the table notes the Community Plans for Tumalo and Terrebonne are in Sections 4.5 and 4.6, respectively. However, text amendments previously approved renumbered these Sections to 4.6 and 4.7. The amendment corrects error. *(Ord. 2015-018 Exhibit B)*

APPENDIX C – TRANSPORTATION SYSTEM PLAN

Section 2.2 Existing Transportation System and Current Needs

The County TSP does not currently include a description of SE 27th Street, which forms portions of the southeast boundary of the city limits and urban growth boundary the City of Bend. Because portions of the road and property adjacent are located in areas under County jurisdiction, inclusion of the road on the TSP is warranted. The County Road Department road inventory identifies this segment of road as a rural arterial and the most recent traffic count in 2008 found 7,656 average daily trips (ADT). The amendment adds SE 27th Street to the existing description of Baker Road and Knott Road because it is natural extension of the same corridor. **(Ord. 2015-018 Exhibit C)**

V. CONCLUSION:

Based on the information provided herein, the Board of County Commissioners APPROVE the proposed text amendments that make minor changes necessary to clarify existing standards and procedural requirements, incorporate changes to state law, and to correct errors.