

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code
Title 18, and Declaring an Emergency.

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ORDINANCE NO. 2015-011

WHEREAS, on July 23, 2015 the Oregon Department of Land Conservation and Development Commission adopted Greater Sage-Grouse habitat inventories and rules establishing a procedure for considering development proposals on lands identified as significant Greater Sage-Grouse Habitat.

WHEREAS, Deschutes County is one of seven counties with Greater Sage-Grouse Habitat; and

WHEREAS, amendments to the Deschutes County Code Title 18 are necessary to comply with ORS 197.646(3) and OAR 660-023-0115(4); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held before the Deschutes County Planning Commission on [date] to consider the revised County Code; and

WHEREAS, on [date], the Planning Commission forwarded to the Board of County Commissioners ("Board") a recommendation of approval to adopt changes to the County Code; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on [date] and concluded that the public will benefit from changes to the County Code; and

WHEREAS, the Board finds it in the public interest to adopt the following County Code amendments; now, therefore,

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

Section 1. ADDING. DCC Chapter 18.89, Greater Sage-Grouse Area Combining Zone, is hereby added to read as described in Exhibit "A," attached hereto and by this reference incorporated herein.

Section 2. AMENDMENT. DCC Chapter 18.90, Sensitive Bird and Mammal Habitat Combining Zone, 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 ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings Exhibit "F" of Ordinance 2015-010 and incorporated by reference herein.

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Section 4. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Dated this _____ of _____, 2015 BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY De BONE, 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.

Commissioner	Record of Adoption Vote:			
	Yes	No	Abstained	Excused
Anthony De Bone	_____	_____	_____	_____
Alan Unger	_____	_____	_____	_____
Tammy Baney	_____	_____	_____	_____

Effective date: _____ day of _____, 2015.

Chapter 18.89. GREATER SAGE-GROUSE AREA COMBINING ZONE - GSGA

18.89.010. Introduction.

18.89.020. Exempt Activities.

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18.89.150. Metering.

18.89.160. Disturbance Threshold.

18.89.010. Introduction.

Greater Sage-Grouse (hereafter “sage-grouse”) habitat is a unique wildlife resource subject to a variety of threats across a broad, multi-state region. Oregon’s sage-grouse habitat is comprised of a combination of public land managed by the federal government and nonfederal land generally in private ownership. Managing private and other nonfederal land for the best possible outcomes requires partnership and cooperation among many stakeholders. Accordingly, private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by Oregon’s Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Beyond voluntary efforts, it remains necessary to provide a regulatory framework that offers fairness, predictability and certainty for all involved parties. Engagement on the part of county government is critical to Oregon’s efforts to address possible impacts from future development.

(Ord. 2015-011 §1, 2015)

18.89.020. Exempt Activities.

- A. Those activities that do not require governmental approval, including farm use as defined in ORS 215.203(2), are exempt from the provisions of this chapter.
- B. State agency permits necessary to facilitate a farm use, including granting of new water right permits by the Oregon Water Resources Department (OWRD), are also exempt from the provisions of this chapter.
- C. Any energy facility that submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before August 13, 2015, is exempt from the provisions of this chapter.
 1. Notwithstanding ORS 197.646(3), this chapter shall not be directly applicable to any land use decision regarding that facility unless the applicant chooses otherwise.
 2. Similarly, any changes to a local government’s acknowledged comprehensive plan or land use ordinances developed to achieve consistency with this chapter shall not constitute “applicable substantive criteria” pursuant to OAR 345-022-0030(3), unless they are in effect on the date the

applicant submits a preliminary application for site certificate, unless the applicant chooses otherwise.

D. Private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances (CCAA) program.

1. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon.
2. Uses identified in CCAA agreements are relieved from the provisions of this chapter except that conflicting uses identified in section DCC 18.89.060 will be subject to sections DCC 18.89.080 thru 18.89.100 in all instances regardless of enrollment status.

(Ord. 2015-011 §1, 2015)

18.89.030. Definitions.

Definitions. For purposes of this chapter, the definitions in OAR 635-140-0002 and in the glossary of the “Greater Sage-Grouse Conservation Assessment and Strategy for Oregon” adopted by the Oregon Fish and Wildlife Commission on April 22, 2011 shall apply. In addition, the following definitions shall apply:

“Areas of High Population Richness” means mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e. the top 25 percent). Please see Exhibit A to OAR 660-023-0115.

“Candidate Conservation Agreement with Assurances” means a formal agreement between the United States Fish and Wildlife Service (USFWS) and one or more parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore the species with the goal that listing under the Federal Endangered Species Act will become unnecessary.

“Core areas” means mapped sagebrush types or other habitats that support sage-grouse annual life history requirements that are encompassed by areas:

- A. Of very high, high, and moderate lek density strata;
- B. Where low lek density strata overlap local connectivity corridors; or
- C. Where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat. Core area maps are maintained by Oregon Department of Fish and Wildlife (ODFW).

“Development action” means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of significant sage-grouse habitat. Development actions may include but are not limited to, construction and operational activities of local, state, and federal agencies. Development actions also include subsequent repermitting of existing activities proposing new impacts beyond current conditions.

“Direct impact” means an adverse effect of a development action upon significant sage-grouse habitat which is proximal to the development action in time and place.

“Disturbance” includes natural threats to sage-grouse habitat such as: wildfire, juniper infestation and the spread of noxious weeds or human activities that can negatively affect sage-grouse use of habitat either through changing the vegetation type or condition, or displacement of sage-grouse use of an area. For purposes of this chapter only disturbance from human activities are considered.

“General habitat” means occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

“Indirect impacts” means adverse effects to significant sage-grouse habitat that are caused by or will ultimately result from an affected development activity. Indirect impacts usually occur later in time or are removed in distance compared to direct effects.

“Large-scale development” means uses that are: over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale development also require review by county decision makers and are listed in one of the following categories identified in the table attached to OAR 660-033-0120.

- A. Commercial Uses.
- B. Mineral, Aggregate, Oil and Gas Uses.
- C. Transportation Uses.
- D. Utility/Solid Waste Disposal Facilities.
- E. Parks/Public/Quasi-Public.

“Lek” means an area where male sage-grouse display during the breeding season to attract females (also referred to as strutting-ground).

“Low density areas” means mapped sagebrush types or other habitats that support sage-grouse that are encompassed by areas where:

- A. Low lek density strata overlapped with seasonal connectivity corridors;
- B. Local corridors occur outside of all lek density strata;
- C. Low lek density strata occur outside of connectivity corridors; or
- D. Seasonal connectivity corridors occur outside of all lek density strata.

Low density area maps are maintained by ODFW.

“Mitigation hierarchy” means an approach used by decision makers to consider development proposals and is ordinarily comprised of a three step process:

- A. “Avoidance” is the first step in the mitigation hierarchy and is accomplished by not taking a certain development action or parts of that action.
- B. “Minimization” is the second step in the mitigation hierarchy and is accomplished by limiting the degree or magnitude of the development action and its implementation.
- C. “Compensatory mitigation” is the third step in the mitigation hierarchy and means the replacement or enhancement of the function of habitat capable of supporting sage-grouse in greater numbers than predicted to be impacted by a development.

“Occupied Lek” means a lek that has been regularly visited by ODFW and has had one or more male sage-grouse counted in one or more of the last seven years..

“Occupied Pending Lek” means a lek that has not been counted regularly by ODFW in the last seven years, but sage-grouse were present at ODFW’s last visit.

“Priority Areas for Conservation” (PACs) means key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., BLM Planning). In Oregon, core area habitats are PACs.

(Ord. 2015-011 §1, 2015)

18.89.040. Quality, Quantity and Location.

The location of sage-grouse habitat within Deschutes County shall be determined by maps produced by ODFW and included as Exhibit B in OAR 660-023-0115.

(Ord. 2015-011 §1, 2015)

18.89.050. Determination of Significance.

Significant sage-grouse habitat includes only lands protected under Statewide Planning Goals 3 or 4 as of July 1, 2015 that are identified as

- A. Core areas;
 - B. Low density areas; and
 - C. Lands within a general habitat area located within 3.1 miles of an occupied or occupied-pending lek.
 - D. The exact location of sage-grouse habitat may be refined during consideration of specific projects but
- (Ord. 2015-011 §1, 2015)

18.89.060. Conflicting Uses.

For purposes of protecting significant sage-grouse habitat, conflicting uses are:

- A. Large-scale development; and
- B. Other activities, which require review by county decision makers pursuant to OAR 660-033-0120 table and are proposed:
 - 1. In a core area within 4.0 miles of an occupied or occupied-pending lek;
 - 2. In a low density area within 3.1 miles of an occupied or occupied-pending lek; or
 - 3. In general habitat within 3.1 miles of an occupied or occupied-pending lek.

(Ord. 2015-011 §1, 2015)

18.89.070. Pre-Application Conference.

- A. The County Planning Division should convene a pre-application conference with the applicant prior to accepting an application for a conflicting use in significant sage-grouse habitat.
- B. The pre-application conference should include, at a minimum, the applicant, County planning staff and local ODFW staff.

(Ord. 2015-011 §1, 2015)

18.89.080. Program to Achieve Goal of Protecting Significant Sage Grouse Habitat in a Core Area.

- A. The County may consider a large-scale development in a core area upon applying disturbance thresholds and the mitigation hierarchy as follows:
 - 1. The County may consider a large-scale development that does not cause the one-percent metering threshold described in DCC 18.89.150 or the three-percent disturbance threshold described in DCC 18.89.160 to be exceeded.
 - 2. Avoidance.
 - a. Before proceeding with large-scale development activity that impacts a core area, the applicant must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within core area habitat.
 - b. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within core area habitat, then the proposal must not be allowed unless it can satisfy the following criteria.
 - i) It is not technically feasible to locate the proposed large-scale development outside of a core area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that development must be

- located such that it will have direct or indirect impacts on significant sage-grouse areas;
or
 - ii) The proposed large-scale development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and
 - iii) If either DCC 18.89.080(A)(2)(b)(i) or 18.89.080(A)(2)(b)(ii) is found to be satisfied the County must also find that the large-scale development will provide important economic opportunity, needed infrastructure, public safety benefits or public health benefits for local citizens or the entire region.
3. Minimization.
- a. If the proposed use cannot be sited by avoiding a core area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the development adjacent to existing development and at the edge of the core area when possible.
 - b. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction.
 - c. Minimizing impacts from large-scale development in core habitat shall also ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project applicant demonstrates, by a preponderance of the evidence, that such an approach is not feasible.
 - d. Costs associated with minimization may be considered, but cost alone may not be the only consideration in determining that location of development cannot further minimize direct or indirect impacts to core areas.
4. Compensatory Mitigation.
- a. To the extent that a proposed large-scale development will have direct or indirect impacts on a core area after application of the avoidance and minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and indirect impacts of the development to any core area.
 - b. The required compensatory mitigation must comply with OAR chapter 635, division 140.
- B. The County may approve a conflicting use as identified at DCC 18.89.060(B) above upon either:
- 1. Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to significant sage-grouse habitat or the way sage-grouse use that habitat; or
 - 2. Conditioning the approval based on ODFW recommendations, including minimization techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.
- (Ord. 2015-011 §1, 2015)

18.89.090. Program to Achieve Goal of Protecting Significant Sage Grouse Habitat in a Low Density Area.

- A. The County may approve a large-scale development in a low density area upon applying the mitigation hierarchy as follows:
- 1. Avoidance.
 - a. Before proceeding with large-scale development activity that impacts a low density area, the applicant must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within a low density area.
 - b. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within a low density area, then the proposal must not be allowed unless it can satisfy the following criteria:
 - 1) It is not technically or financially feasible to locate the proposed large-scale development outside of a low density area based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

- 2) The proposed large-scale development is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations, or it is a linear use that must cross significant sage-grouse habitat in order to achieve a reasonably direct route.
 2. Minimization.
 - a. If the proposed use cannot be sited by avoiding a low density area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the low density area(s) in question by locating the development adjacent to existing development and at the edge of the low density area when possible.
 - b. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction.
 3. Compensatory Mitigation. Required consistent with the provisions of DCC 18.89.080(A)(4) above.
 - B. The County may approve a conflicting use as identified at DCC 18.89.060(B) above when found to be consistent with the provisions of DCC 18.89.080(B).
- (Ord. 2015-011 §1, 2015)

18.89.100. Program to Achieve Goal of Protecting Significant Sage Grouse Habitat on General Habitat.

- A. The County may approve a large-scale development on significant sage-grouse habitat in general habitat upon requiring:
 1. General Habitat Consultation.
 - a. If the proposed use cannot be sited by avoiding a general habitat area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the general habitat area(s) in question.
 - b. If the proposed use will be located in a general habitat area, the application for the use must include documentation of consultation between the development applicant and ODFW that considers and results in recommendations on how to best locate, construct or operate the development action so as to avoid or minimize direct and indirect impacts on significant sage-grouse habitat within the area of general habitat.
 - c. The County shall attach ODFW recommendations as a condition of approval; and
 2. Compensatory Mitigation. Required consistent with the provisions of DCC 18.89.080(A)(4) above.
 - B. The County may approve a conflicting use identified in DCC 18.89.060(B) above when found to be consistent with the provisions of DCC 18.89.080(B).
- (Ord. 2015-011 §1, 2015)

18.89.110. Especially Unique Local Economic Opportunity.

- A. The County may approve a large-scale development proposal that does not meet the avoidance test for significant sage-grouse habitat if the County determines that the overall public benefits of the proposal outweigh the damage to significant sage-grouse habitat.
- B. Requirements for minimization and compensatory mitigation continue to apply and attempts should be made to avoid areas of high population richness, if possible.
- C. The County shall make the balancing determination required by DCC 18.89.110(A) and (B) only when the proposal involves an economic opportunity that will provide a number of permanent, full-time jobs, not including construction activities, paying at least 150 percent of average county wages sufficient to increase the amount of total private nonfarm payroll employment by at least 0.5 percent over the figure included in the most recent data available from the Oregon Department of Employment rounded down to the nearest whole number.
- D. The applicant has the burden to show that the overall public benefits outweigh the damage to the significant sage-grouse habitat.

- E. This section may be exercised by the County once during every ten-year period beginning on August 13, 2015.
 - F. The County may deny a proposal submitted under this section.
- (Ord. 2015-011 §1, 2015)

18.89.120. Proposal to Upzone Lands Containing Significant Sage Grouse Habitat.

- A. A proposal to up-zone lands containing significant sage-grouse habitat to a greater development potential than otherwise allowed under Goals 3 and 4 shall follow the ordinary Goal 5 process at OAR 660-023-0030 to 660-023-0050.
 - B. Up-zoning lands in a core area shall be considered a direct impact and count towards the three percent disturbance threshold pursuant to DCC 18.89.160 below.
- (Ord. 2015-011 §1, 2015)

18.89.130. Landscape-Level Consideration.

The standards in DCC 18.89.080, 18.89.090 18.89.100 above, are designed to minimize the amount of future impacts from human sources to significant sage-grouse habitat areas.

(Ord. 2015-011 §1, 2015)

18.89.140. Central Registry.

- A. The County shall cooperate with the Oregon Department of Land Conservation and Development (DLCD), ODFW, the Bureau of Land Management (BLM), and USFWS, Baker, Crook, Harney, Lake, Malheur and Union counties to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas.
 - B. In addition to assisting in maintaining the central registry, the County shall report all development land use permits for all uses within a core area to DLCD.
 - C. The County may establish more refined, project specific data to replace the baseline figures in the DLCD registry so long as all counties listed in DCC 18.89.140(A) utilize a common methodology.
- (Ord. 2015-011 §1, 2015)

18.89.150. Metering.

- A. This chapter is intended to ensure that the area of direct impact levels in any PAC, including energy facilities exempted under subsection (2)(b), does not increase by an amount greater than 1.0 percent of the total area of the PAC in any ten-year period.
 - B. The initial period shall commence August 13, 2015, the effective date of the Land Conservation and Development Commission (LCDC) sage grouse protection rules, and continue for ten consecutive years, where upon the process shall be successively repeated.
- (Ord. 2015-011 §1, 2015)

18.89.160. Disturbance Threshold.

This Chapter is intended to ensure that direct impact level, including energy facilities exempted under DCC 18.89.020(C), does not exceed three percent of the total area in any PAC. (Ord. 2015-011 §1, 2015)

Chapter 18.90. SENSITIVE BIRD AND MAMMAL HABITAT COMBINING ZONE - SBMH

18.90.010. Purpose.

18.90.020. Definition of Sensitive Habitat Area.

18.90.030. Limitations and Uses Permitted.

18.90.040. Applicability.

18.90.050. Site Plan Review Requirement.

18.90.060. Site Plan Review Criteria.

18.90.010. Purpose.

The purpose of the Sensitive Bird and Mammal Combining Zone is to insure that sensitive habitat areas identified in the County's Goal 5 sensitive bird and mammal inventory as critical for the survival of the northern bald eagle, great blue heron, golden eagle, prairie falcon, osprey, great grey owl, ~~sage-grouse~~, and the Townsend's big-eared bat are protected from the effects of conflicting uses or activities which are not subject to the Forest Practices Act. This objective shall be achieved by implementation of the decision resulting from the economic, social, environmental and energy analysis (ESEE) for each inventoried sensitive habitat area.

([Ord. 2015-011 §2, 2015](#); Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.020. Definition of Sensitive Habitat Area.

A. The sensitive habitat area is the area identified in the Deschutes County Comprehensive Plan Resource Element inventory and site specific ESEE for each sensitive bird or mammal site. The sensitive habitat area to be protected by the provisions of DCC 18.90 is defined as the area:

1. Within a radius of 1,320 feet of a golden eagle, bald eagle, prairie falcon nest, ~~sage-grouse lek~~, or a Townsend's big-eared bat hibernating or nursery site.
2. Within a radius of 300 feet of a great blue heron rookery or osprey nest.
3. Within a radius of 900 feet of a great grey owl nest site.

B. Inventoried sensitive bird or mammal sites located on federal land are not subject to the provisions of DCC 18.90 unless the sensitive habitat area identified in DCC 18.90.020(A)(1) extends onto nonfederal land.

([Ord. 2015-011 §2, 2015](#); Ord. 94-005 §1, 1994; Ord. 93-043 §14, 1993; Ord. 92-042 §2, 1992)

18.90.030. Limitations and Uses Permitted.

A. Uses permitted in the underlying zone(s) are permitted or conditionally permitted in the Sensitive Bird and Mammal Combining Zone subject to the additional procedure and requirements of DCC 18.90.040 and the provisions of the ESEE decision. The Sensitive Bird and Mammal Habitat Combining Zone does not regulate or prohibit forest practices subject to ORS 527.610 to 527.770 and the rules adopted pursuant thereto; or to farm practices as defined by ORS 30.930(2).

B. When there is a conflict between the site specific ESEE analysis and the provisions of DCC Title 18, the site-specific ESEE analysis shall control.

(Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.040. Applicability.

Review under DCC 18.90 shall be triggered by the following proposals occurring within a sensitive habitat area, as defined in DCC 18.90.020:

- A. An application for a building permit for a new structure or addition to an existing structure;

- B. Land divisions creating new lots or parcels within the sensitive habitat area;
 - C. An application for a conditional use permit; or
 - D. An application for site plan approval.
- (Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.050. Site Plan Review Requirement.

- A. For those proposals identified in DCC 18.90.040 to be sited within an inventoried sensitive habitat area, as defined under DCC 18.90.020, a site plan shall be prepared in accordance with the requirements of DCC 18.90.050. The site plan shall be approved prior to issuance of a building permit, land division, conditional use permit or site plan identified in DCC 18.90.040.
 - B. The site plan application shall provide the following information:
 - 1. A plot plan showing the location of all development including existing and proposed roads, driveways and structures.
 - 2. Description of operating characteristics of the proposed use including times when activity within the sensitive habitat area would generate noise, dust, vibration, lights, traffic or be visible from the nest, ~~lek~~, rookery or hibernation site.
 - 3. Timing of construction activities including grading or filling land, hauling materials and building.
 - 4. Description of existing vegetation and vegetation to be removed for the proposed development.
 - C. The County shall submit a copy of the site plan to the Oregon Department of Fish and Wildlife for comment. ODFW shall have 20 days from the date the site plan is mailed to submit written comments to the County.
 - D. Based upon the record, and evaluation of the proposal based on the criteria in DCC 18.90.060, and conformance with the ESEE analysis for the site contained in the Resource Element of the Comprehensive Plan, the County shall approve or reject the site plan. In lieu of rejection of the site plan, the County may allow the applicant to revise the site plan if the applicant has not met the standards for approval. Applicant shall waive the 120-day time limit if it chooses to revise the site plan.
 - E. Approval of a site plan under DCC 18.90.050 shall be conditioned upon applicant's implementation of the plan.
- (Ord. 2015-011 §2, 2015; Ord. 95-075 §1, 1995; Ord. 94-005 §1, 1994; Ord. 93-043 §14B, 1993; Ord. 92-042 §2, 1992)

18.90.060. Site Plan Review Criteria.

Approval of site plan shall be based on the following criteria:

- A. The site plan shall consider the biology of the identified sensitive species, nesting trees, critical nesting periods, roosting sites and buffer areas. Based on the biology of the species and the characteristics of the site, the site plan shall provide protection that will prevent destruction of the subject nesting site, ~~lek~~, hibernation site or rookery and will, to a reasonable certainty, avoid causing the site to be abandoned.
- B. Development activities, including grading and fill, mining, construction, or activities generating noise or dust within the sensitive habitat area shall be prohibited during the nesting, strutting or hibernation season identified in the site specific ESEE analysis and decision for each habitat site. An exception to this standard may be made if the Oregon Department of Fish and Wildlife determines in writing that the nest, ~~lek~~ or rookery is not active and will not become active during the proposed construction period or if the sensitive birds have fledged. Construction activities within an enclosed structure may be conducted during the nesting, strutting or hibernation season. Construction activities necessary to repair an existing septic system or to replace or repair a structure destroyed or damaged by fire or other natural causes may be conducted during the nesting, strutting or hibernation season.
- C. New roads, driveways or public trails shall be located at the greatest distance possible from the nest, ~~lek~~, rookery or hibernation site unless topographic or vegetation or structural features will provide greater visual and/or noise buffer from the nest, ~~lek~~, rookery or hibernation site.

- | D. Existing vegetation or other landscape features which are located on the subject property and which obscure the view of the nest, rookery, ~~lek~~ or hibernation site from the proposed development, shall be preserved and maintained. A restrictive covenant to preserve and maintain vegetation shall be required when specified in the ESEE for the site.
- E. No partitions or subdivisions shall be permitted which would force location of a dwelling or other structure, not otherwise permitted by the site specific ESEE, within the designated sensitive habitat area.
- | F. All exterior lighting, including security lighting shall be sited and shielded so that the light is directed downward and does not shine on the subject nest, rookery, ~~lek~~ or hibernation site.
- G. The site plan shall conform with the requirements of the ESEE decision for the subject sensitive bird or mammal site contained in the Resource Element of the Deschutes County Comprehensive plan.
| (Ord. 2015-011 §2, 2015; Ord. 94-005 §1, 1994)