

REVIEWED
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LEGAL COUNSEL

94-36756

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

0137-0352

An Ordinance Amending Chapter 18.84,
Open Space and Conservation Zone, of
Title 18, the Deschutes County Zoning
Ordinance, and declaring an emergency.

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ORDINANCE NO. 94-041

94 SEP 15 AM 8:10
MARY SUE PERIODIC
COUNTY CLERK

WHEREAS, the Land Conservation and Development Commission issues Remand Order 93-RA-883 requiring Deschutes County to amend Chapter 18.48 of the Deschutes County Code, Open Space and Conservation Zone, to make the uses permitted consistent with the uses permitted in exclusive farm use zones by OAR 660-33-120 and the uses permitted in forest zones by OAR 66-06-025; and

WHEREAS, Remand Order 93-RA-883 required Deschutes County to amend Chapter 18.48 of the Deschutes County code, Open Space and Conservation Zone, to make the minimum lot size consistent with the allowed in exclusive farm use zones by OAR 660-33-100 and in forest zones by OAR 660-06-026; and

WHEREAS, the Deschutes County Planning Commission, after review conducted in accordance with applicable law, has recommended approval of the proposed amendments to the Board of County Commissioners; and

WHEREAS, after notice was given and hearing conducted in accordance with applicable law, the Board of County Commissioners have considered the Planning Commission's recommendation now, therefore,

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

Section 1. ADOPTION OF AMENDMENTS TO SECTIONS 18.48.0020, 18.48.030 AND 18.48.040 OF THE DESCHUTES COUNTY CODE. Section 18.48.020, 18.48.030 and 18.48.040 of the Deschutes County Code, as amended, is further amended by the provisions set forth in Exhibit "A", attached hereto and by this reference incorporated herein.

Section 2. ADOPTION OF AMENDMENTS TO SECTION 18.04.020 OF THE DESCHUTES COUNTY CODE. Section 18.04.020, as amended, is further amended by amending the definition of "Campground" as follows:

"Campground. An area designed for overnight, temporary use where facilities are provided to accommodate camping for two or more tents or recreational vehicles. A campground shall not include campsite utility hookups, **intensively developed recreational uses such as swimming pools or tennis courts** or commercial activities **such as retail stores or gas stations.**"

Section 3. ADOPTION OF AMENDMENTS TO SECTION 18.04.020 OF THE DESCHUTES COUNTY CODE. Section 18.04.020, as amended, is further amended by adding the following definition of park:

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"Public Park. An area of natural or ornamental quality for outdoor recreation that provides the resource base for the following activities: picnicking, boating, fishing, swimming, camping and hiking or nature-oriented recreation such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above."

Section 4. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance or any exhibit thereto is adjudged to be invalid by a court of competent jurisdiction that decision shall not affect the validity of the remaining portions of this ordinance or exhibit thereto.

Section 5. CODIFICATION. County Legal Counsel shall have the authority to format the provisions contained herein in a manner that will integrate them into the County Code consistent with the County Legal Counsel form and style for ordinance codification. Such codification shall include the authority to make format changes, to make changes in numbering systems and to make such number changes consistent with interrelated code sections. In addition, as part of codification of these ordinance, County Legal Counsel may insert appropriate legislative history reference. Any legislative history reference included herein are not adopted as part of the substance of this ordinance, but are included for administrative convenience and as a reference. They may be changed to correct errors and to conform to property style without action of the Board of County Commissioners.

Section 6. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of an ordinance, ordinance provision, or code section, or any map or any line on a map incorporated therein by reference, by this amending ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability previously incurred or that may hereafter be incurred under such ordinance, unless a provision of this amending ordinance shall so expressly provide, and such ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who previously violated the repealed ordinance.

Section 7. 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 14th day of September, 1994.

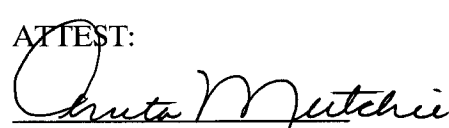
**BOARD OF COUNTY COMMISSIONERS OF DESCHUTES
COUNTY, OREGON**


NANCY POPE SCHLANGEN, Chair


TOM THROOP, Commissioner


BARRY H. SLAUGHTER, Commissioner

ATTEST:


Anita Mitchell
Recording Secretary

NOTE: New language is underlined and in **bold**; deleted language is in brackets [].

Chapter 18.48

OPEN SPACE AND CONSERVATION OS&C ZONE

Sections:

- 18.48.010 Purpose
- 18.48.020 Uses Permitted Outright
- 18.48.030 Conditional Uses Permitted
- 18.48.040 Dimensional Standards
- 18.48.050 Setbacks
- 18.48.060 Limitations on Conditional Uses

In an OS&C Zone, the following regulations shall apply:

18.48.010 Purpose.

The purpose of the Open Space and Conservation Zone is to protect designated areas of scenic and natural resources; to restrict development in areas with fragile, unusual or unique qualities; to protect and improve the quality of the air, water and land resources and to plan development that will conserve open space. (Ord. 93-043 § 6, 1993)

18.48.020 Uses Permitted Outright.

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

A. Farm use as defined in ORS 215.203(2).

B. Public and non-profit agencies, museums and exhibits on lands where an exception has been granted in accordance with OAR Chapter 660, Division 4.

C. Public wildlife reserve or management area, not including structures.

[D. Public parks, playgrounds and recreational areas.]

18.48.030 Conditional Uses Permitted.

The following uses may be allowed subject to Chapter 18.128 of this title: (Ord 91-038 § 1,

1991)

A. [Commercial,] Private parks, picnic areas or [camp-grounds] hunting and fishing preserves.

B. [Commercial, private group camping facility] Public parks and recreational areas owned and operated by a governmental agency or non-profit community organization.

C. Utility facility except landfills.

[D. Public or private golf courses.]

D[E]. Water supply and treatment facility.

[F. Commercial recreation use including marina, riding stable, gun club, recreation camp and dude ranch. (Ord. 92-004 § 9, 1992)]

[G. Public marina, recreation camp or resort.]

[H. Public or private rockhound sites.]

E[I]. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to Sections 18.120.050 and 18.128.040(W). (Ord. 91-038 § 1, 1991)

F. Campground.

18.48.040 Dimensional Standards.

In an OS&C Zone, the following dimensional standards shall apply:

A. The minimum lot size is 80 acres. [shall be that determined by the County Sanitarian to be necessary for the protection of public health and natural resources.]

B. Building Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed under Section 18.120.040. (Ord. 92-055 § B, 1992)

18.48.050 Setbacks.

A. Minimum setbacks shall be 60 feet from an arterial or collector street or road right-of-way and 20 feet from a street within a platted and recorded subdivision.

B. The setback from a perennial stream or lake ordinary high water mark shall be a

minimum of 200 feet, and from an intermittent stream channel, 100 feet. (Ord. 91-020 § 1, 1991)

C. Each side setback shall be a minimum of 15 feet, except on a corner lot it shall be 30 feet from the street side.

D. The setback from the north lot line shall meet the solar setback requirements in Section 18.116.180. (Ord. 83-037 § 13, 1983)

E. Rimrock Setback. Setbacks from rimrock shall be as provided in Section 18.116.160. (Ord. 86-053 § 10, 1986)

F. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under Chapter 15.04 of this title shall be met. (Ord. 94-008 § 28, 1994)

18.48.060 Limitations on Conditional Uses.

The following limitations shall apply to a conditional use in an OS&C Zone:

A. An application for a conditional use in an OS&C Zone may be denied if, in the opinion of the Planning Director or Hearings Body, the proposed use is not related to or sufficiently dependent upon the recreational resources of the area.

B. **The proposed use shall not significantly increase fire hazard or significantly increase risks to fire suppression personnel.** The Planning Director or Hearings Body may require establishment and maintenance of fire breaks, the use of fire resistant materials in construction and landscaping, or attach other similar conditions or limitations that will reduce fire hazards or prevent the spread of fire to surrounding areas.

C. The Planning Director or Hearings Body may limit changes in the natural grade of land, or the alteration, removal or destruction of natural vegetation to prevent or minimize erosion, pollution or degradation of the natural attractiveness of the area.

D. An application for a conditional use in an OS&C Zone shall be denied if, in the

opinion of the Planning Director or Hearings Body, the proposed use would exceed the carrying capacity of the area or would be detrimental to the natural features or resources of the area.

E. An application for a conditional use in an OS&C Zone shall be denied if not in compliance with the Comprehensive Plan. (Ord. 91-020 § 1 1991)

F. An application for a conditional use shall be denied if the proposed use would force a significant change in, or significantly increase the cost of accepted farming or forest practices on agriculture or forest lands.

G. Where the proposed use is adjacent to forest zoned land, a written statement recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the right of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-06-025(4)(e), (1), (r), (s) and (v).