

REVIEWED  
Buw  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County \*  
Code Title 18 to Add Text to Chapter \*  
18.96, Flood Plain Zone, and Declaring \*  
an Emergency. \*

96 MAY -2 AM 9:54

MARY SUE PENNOLLOV  
COUNTY CLERK

ORDINANCE NO. 96-032

0154-1589

WHEREAS, Deschutes County participates in the National Flood Insurance Program to allow property owners to obtain insurance for property located in designated flood plains; and

WHEREAS, Deschutes County zoning regulations must comply with standards set forth by the Federal Emergency Management Agency in order for the County to continue to participate in the National Flood Insurance Program; and

WHEREAS, Keith and Kathleen Morrow applied for a text amendment to allow for expansion of commercial buildings in the Flood Plain Zone; and

WHEREAS, after notice and hearing as required by law, the Board of County Commissioners has considered the recommendation of the Planning Commission; now therefore,

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

Section 1. Adoption of Amendment to Chapter 18.96 of the Deschutes County Code Title 18. Subsection 18.96.040(I), is amended to read as set forth in Exhibit A, attached hereto and by this reference incorporated herein (with deleted wording in brackets and added wording in bold).

Section 2. Findings. Findings to support this ordinance are attached hereto as Exhibit B.

Section 3. Codification. Legal Counsel or the Code Book Review Committee shall have the authority to format the provisions contained herein in a manner that will integrate them into the County Code consistent with the prescribed 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 numbering changes consistent with inter-related code sections. In addition, as part of codification of these ordinances, Legal Counsel or the Code Book Review Committee may insert appropriate legislative history references. Any legislative history references included herein are not adopted as part of the substance of this ordinance, but are included for

MICROFILMED  
KEYPUNCHED  
MAY 15 1996  
MAY 02 1996

administrative convenience and as a reference. They may be changed to correct errors and to conform to proper style without action of the Board of County Commissioners.

Section 4. Repeal of Ordinances as Affecting Existing Liabilities. The repeal, express or implied, of any ordinance, ordinance provision, code section or any map or line on a map by this ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability incurred under such ordinance, unless a provision of this 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 violated the repealed ordinance.

Section 5. Corrections. This ordinance may be corrected by order of the Board of County Commissioners to cure editorial and clerical errors and to insert appropriate legislative history references.

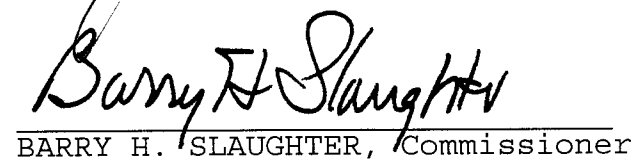
Section 6. Severability. The provisions of this ordinance are severable. If any section, sentence, clause or phrase of this ordinance or any exhibit thereto is found to be invalid by court of competent jurisdiction that decision shall not affect the validity of the remaining portions of this ordinance.

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 1 day of May, 1996.

  
NANCY POJE SCHLANGEN, Chair

  
ROBERT L. NIPPER, Commissioner

  
BARRY H. SLAUGHTER, Commissioner

ATTEST:

  
Anita Mutchie  
Recording Secretary

**18.96.040. Conditional uses permitted.**

The following uses may be allowed subject to applicable sections of this title:

A. A roadway, bridge or utility structure, except a landfill, that will not impede the waters of a base flood subject to chapter 18.128 of this title.

B. Incidental storage of material or equipment that is either not subject to damage by flood, or is mobile and readily removable from the area within time available after flood warning. If such material is not readily removable, it shall be anchored to prevent flotation and shall not obstruct water flow. Material or equipment stored shall include only items which will not create a hazard to the health or safety of persons, property, animals or plant life should the storage area be inundated.

C. Single-family dwelling, or a manufactured home subject to section 18.116.070, on an individual lot. In addition to the other requirements of this chapter, single-family dwellings proposed to be sited in areas of the Flood Plain Zone designated "Agriculture" on the Comprehensive Plan Map may be approved only as uses identified by sections 18.16.030(A), (B), (D) or (E) and subject to the applicable provisions of chapter 18.16 governing those uses. In addition to the other requirements of this chapter, single-family dwellings proposed to be sited in areas of the Flood Plain Zone designated "Forest" on the Comprehensive Plan Map may be approved only as uses identified by sections 18.36.030(Y), 18.040.030(X) or 18.040.030(Y) and subject to the applicable provision of chapters 18.36 and 18.40 governing those uses.

D. Agricultural accessory buildings.

E. Hydroelectric facilities subject to sections 18.116.130 and 18.128.040(V).

F. 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). Excavation, grading and fill within any area of special flood hazard identified in section 18.96.020 Of this title.

G. Recreational uses requiring only structures having an insignificant effect on flood waters, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, wildlife or nature preserves, game farms, fish hatcheries, shooting preserves and hunting or fishing areas subject to chapter 18.128, except in areas designated "Forest" or "Agriculture" on the Comprehensive Plan Map.

H. Subdividing or partitioning of land, any portion of which is located in a flood plain, subject to the provisions of this title and Deschutes County Code Title 17, the Subdivision/Partition Ordinance.

I. Expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building.

J. A boat dock or pier, either individual or community, on private property which lies in the following areas:

1. On the Deschutes River between river miles 226.4 and 224.5. This area is identified in the Scenic Waterway Management Plan as the Wickiup River

Community Area;

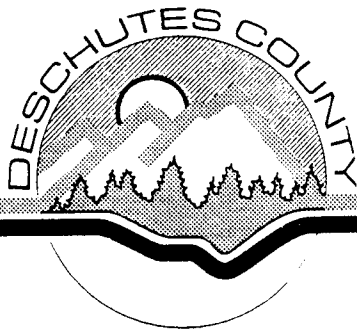
2. On the Deschutes River between river miles 217.5 and 216.5. This area is identified in the Scenic Waterway Management Plan as the Pringle Falls River Community Area; and

3. On the Deschutes River between river miles 207 and 192. This area is identified in the Scenic Waterway Management Plan as River Community Areas and Recreational River Area respectively.

K. Those recreational uses described in section 18.36.030, "F-1 - Conditional Uses," having an insignificant effect on flood waters where the subject Flood Plain-zoned site is designated by the Comprehensive Plan Map as "Forest" and is adjacent to land zoned F-1.

L. Those recreational uses described in section 18.040.030, "F-2 - Conditional Uses," having an insignificant effect on flood waters where the subject Flood Plain-zoned site is designated by the Comprehensive Plan Map as "Forest" and is adjacent to land zoned F-2.

0154-1592



## Community Development Department

Administration Bldg., 1130 N.W. Harriman, Bend, Oregon 97701

(541) 388-6575

FAX 385-1764

Planning Division

Building Safety Division

Environmental Health Division

### MEMORANDUM

**0154-1593**

**DATE:** April 22, 1996  
**TO:** Deschutes County Board of Commissioners  
**FROM:** David B. Leslie, Associate Planner *Dave*  
**SUBJECT:** Text Amendment to Chapter 18.96, Flood Plain Zone

The applicant, Keith and Kathleen Morrow, has proposed an amendment to allow the expansion of existing commercial structures located in the Flood Plain (FP) Zone. This amendment, if approved, would allow the applicant to apply for a conditional use permit and site plan review to remodel and expand the Trout House restaurant located in Sunriver.

Subsection 18.96.080 of the County Code contains conditional use criteria for "new construction and substantial improvement to commercial, industrial or other nonresidential structure..."

However, the uses permitted either outright or conditionally in the FP zone do not include these uses. Thus, criteria exist for uses which are not allowed. (Expansion or substantial improvement to existing dwellings, structures related to agriculture or accessory buildings is permitted as a conditional use.)

The proposed amendment to the County Code would allow expansion or substantial improvement to commercial, industrial or other nonresidential structures as a conditional use. These uses would then be consistent with the existing criteria as described above.

The amendment as proposed would not allow new construction of commercial or industrial structures. Therefore, the County would not be allowing new uses in identified flood hazard areas beyond what is already permitted in the ordinance. The proposed revisions are consistent with Federal Emergency

Memorandum - BOCC  
April 22, 1996  
Page 1

EXHIBIT B to Ord 96-032  
Page \_\_\_\_\_

Management Agency regulations pertaining to the National Flood Insurance Program (NFIP). The County must maintain conformity to these regulations to remain in good standing in the NFIP.

The Planning Commission held a public hearing on this matter and recommends that the Board adopt the proposed changes as described above. Maps were presented at the Planning Commission hearing to illustrate the relationship between the identified flood hazard area on the Flood Insurance Rate Maps adopted by the County and areas zoned for commercial or industrial development in the Spring River Road, Tumalo, Sunriver, LaPine and Brothers areas.

The Trout House restaurant appears to be the only existing commercial or industrial use in Deschutes County located in a flood plain which would benefit from this ordinance revision.

This is further evidence that the proposed revision would not significantly alter the overall pattern of development in the flood plain. The existing conditional use criteria will ensure that any expansion or substantial improvement to this use will occur in a manner which is consistent with the NFIP regulations.

DBL:slr

**0154-1594**