

Section 2. 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 24th day of April, 2002.


BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



TOM DEWOLF, Chair



DENNIS R. LUKE, Commissioner



MICHAEL M. DALY, Commissioner

Date of 1st Reading: 24th day of April, 2002.

Date of 2nd Reading: 24th day of April, 2002.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Tom DeWolf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael M. Daly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 24th day of April, 2002.

ATTEST:



Recording Secretary

EXHIBIT "A"

Chapter 18.16. EXCLUSIVE FARM USE ZONES

18.16.010. Purpose.

18.16.020. Uses permitted outright.

18.16.030. Conditional uses permitted - High value and nonhigh value farmland.

18.16.031. Nonresidential conditional uses on nonhigh value farmland only.

18.16.033. Nonresidential conditional uses on high value farmland only.

18.16.035. Destination resorts.

18.16.037. Guest ranch.

18.16.040. Limitations on conditional uses.

18.16.050. Standards for dwellings in the EFU zones.

18.16.055. Land divisions.

18.16.060. Dimensional standards.

18.16.065. Subzones.

18.16.067. Farm management plans.

18.16.070. Yards.

18.16.080. Stream setbacks.

18.16.090. Rimrock setback.

18.16.010. Purpose.

A. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.

B. The purposes of this zone are served by the land use restrictions set forth in the Comprehensive Plan and in DCC 18.16 and by the restrictions on private civil actions and enforcement actions set forth in ORS 30.930 through 30.947.

(Ord. 2001-016 § 2, 2001; Ord. 95-007 § 9, 1995; Ord. 92-065 § 3, 1992; Ord. 91-038 § 1 and 2, 1991)

18.16.020. Uses permitted outright.

The following uses and their accessory uses are permitted outright:

A. Farm use as defined in DCC Title 18.

B. Propagation or harvesting of a forest product.

C. Exploration for minerals as defined by ORS 517.750(4).

D. Accessory buildings customarily provided in conjunction with farm use.

E. Climbing and passing lanes within a right of way existing as of July 1, 1987.

F. Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur or no new land parcels result.

G. Temporary public road or highway detour that will be abandoned and restored to original condition or use when no longer needed.

H. Minor betterment of existing public roads and highway-related facilities such as maintenance yards, weigh stations and rest areas, within a right of way existing as of July 1, 1987, and contiguous publicly owned property utilized to support the operation and maintenance of public roads and highways.

I. Creation, restoration or enhancement of wetlands.

J. Alteration, restoration or replacement of a lawfully established dwelling that:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable use within three months of completion of the replacement dwelling.

An accessory farm dwelling approved under DCC 18.16.050(C) may be replaced only by a manufactured home.

K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480.

L. Wildlife habitat conservation and management plan approved under ORS 215.802.

(Ord. 2001-016 § 2, 2001; Ord. 98-030 § 1, 1998; Ord. 95-007 § 10, 1995; Ord. 92-065 § 3, 1992; Ord. 91-038 § 1 and 2, 1991; Ord. 91-024 § 1, 1991; Ord. 91-020 § 1, 1991; Ord. 91-005 § 4, 1991; Ord. 91-002 § 3, 1991; Ord. 86-007 § 1, 1986; Ord. 81-025 § 1, 1981; Ord. 81-001 § 1, 1981)

18.16.030. Conditional uses permitted -High value and nonhigh value farmland.

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or nonhigh value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings).
- B. A relative farm-help dwelling.
- C. Nonfarm dwelling and accessory uses thereto.
- D. Lot of record dwelling.
- E. Residential home, as defined in DCC 18.04.030, in existing dwellings.
- F. A hardship dwelling.
- G. A dwelling in conjunction with a wildlife habitat conservation and management plan.
- H. Commercial activity that is in conjunction with farm use.
- I. Operations conducted for
 1. Exploration, mining and processing of geothermal resources as defined by ORS 522.005;
 2. Exploration and extraction of natural gas or oil; or
 3. Surface mining of mineral and aggregate resources exclusively for on-site personal, farm or forest use or in conjunction with maintenance for irrigation canals.

J. Homestead retention when the entire parcel has been under single ownership for at least the preceding 10 consecutive years and the parcel occupies not less than 320 acres. This use will permit the owner to convey the parcel but retain a leasehold interest in the residence and the land underlying the residence up to a maximum of five acres. In no case shall another residence be constructed elsewhere on the parcel except in conformance with the terms of DCC 18.16. The leasehold interest shall extend throughout the lifetimes of the seller and his or her spouse.

- K. Expansion of an existing private park, playground, hunting and fishing preserve and campground.
- L. Expansion of an existing park, playground or community center owned and operated by a governmental agency or a nonprofit community organization.
- M. Utility facility necessary for public service except commercial utility facility for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
- N. Transmission tower over 200 feet in height.
- O. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260), for the purpose of generating power for public use by sale.
- P. Personal use landing strip for airplanes and helicopter pad, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guests and by commercial aviation activities in connection with agricultural operations.
- Q. Home occupation carried on by residents as an accessory use within their existing dwelling or other existing residential accessory building. Home occupations are

not allowed in structures accessory to resource use.

- R. A facility for the primary processing of forest products. The primary processing of a forest product, as used in DCC 18.16.030, means the use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.16.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- S. Storage, crushing and processing of minerals, including the processing of aggregate into asphaltic concrete or portland cement concrete when such uses are in conjunction with the maintenance or construction of public roads or highways.
- T. Expansion of an existing church or cemetery in conjunction with a church, provided such church or cemetery is not within three miles of an urban growth boundary.
- U. Expansion of an existing church or cemetery in conjunction with a church within three miles of an urban growth boundary if an exception is first granted under state law.
- V. Expansion of an existing public or private school, including all buildings essential to the operation of such a school, provided such school is not within three miles of an urban growth boundary.
- W. Expansion of an existing public or private school, including all buildings essential to the operation of such a school, located within three miles of an urban growth boundary, if an exception is first granted under state law.
- X. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
- Y. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.
- Z. Improvement of public roads and highway-related facilities such as

maintenance yards, weigh stations and rest areas where additional property or right of way is required, but not resulting in the creation of new land parcels.

- AA. The propagation, cultivation, maintenance and harvesting of aquatic species.
- BB. Bed and breakfast inn.
- CC. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland.
- DD. Rural fire station.
- EE. Roads, highways and other transportation facilities, and improvements not otherwise allowed under DCC 18.16, if an exception to Goal 3, Agricultural Lands, and to any other applicable goal is first granted under state law.
(Ord. 2001-016 § 2, 2001; Ord. 98-030 § 1, 1998; Ord. 95-025 § 1, 1995; Ord. 95-007 § 11, 1995; Ord. 94-008 § 9, 1994; Ord. 92-065 § 3, 1992; Ord. 91-038 § 2, 1991; Ord. 91-020 § 1, 1991; Ord. 91-014 § 1, 1991; Ord. 91-005 § 5, 1991; Ord. 90-018 § 1, 1990; Ord. 90-014 §§ 23 and 31, 1991; Ord. 87-013 § 1, 1987; Ord. 86-018 § 3, 1986; Ord. 83-028 § 1, 1983)

18.16.031. Nonresidential conditional uses on nonhigh value farmland only.

The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute nonhigh value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. Dog kennel.
- B. A site for the disposal of solid waste approved by the governing body of a city or County or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- C. Golf course and accessory golf course uses as defined in DCC Title 18.
(Ord. 2001-016 § 2, 2001; Ord. 95-007 § 12, 1995)

18.16.033. Nonresidential conditional uses on high value farmland only.

In addition to those uses listed in DCC 18.16.030 above, the following uses may be allowed on tracts in the Exclusive Farm Use Zones that constitute high value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. Maintenance, enhancement or expansion of dog kennels existing as of March 1, 1994, subject to other requirements of law. New dog kennels are prohibited.
- B. Maintenance, enhancement or expansion of a site described in 18.16.031(B) existing as of March 1, 1994, subject to other requirements of law. New such sites are prohibited.
- C. Maintenance, enhancement or expansion of golf course and accessory golf course uses as defined in DCC Title 18 existing as of March 1, 1994, subject to other requirements of law. New such uses are prohibited. Expanded courses may not exceed 36 holes total.

(Ord. 2001-016 § 2, 2001; Ord. 95-007 § 13, 1995)

18.16.035. Destination resorts.

Destination resorts may be allowed where mapped as a conditional use, subject to all applicable standards of the DR Zone.

(Ord. 2001-016 § 2, 2001; Ord. 92-065 § 3, 1992; Ord. 92-004 § 3, 1992)

18.16.037. Guest ranch.

- A. A guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203, subject to the applicable provisions set forth in DCC 18.16.040(A)(1), (2) and (3), the applicable provisions of DCC 18.128, and the provisions of ORS 215.296(1) and (2).
- B. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock operation that qualifies as a farm use under ORS 215.203. Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive

recreational activities and food services as set forth in DCC 18.128.360(4) and (5).

- C. For the purposes of DCC 18.16.037, "livestock" means cattle, sheep, horses, and bison.
- D. A proposed division of land in an exclusive farm use zone for a guest ranch or a division of a lot or parcel that separates a guest ranch from the dwelling of the person conducting the livestock operation shall not be allowed.

(Ord. 2001-016 § 2, 2001; Ord 98-056 § 1, 1998)

Note: DCC 18.16.037 is repealed December 31, 2001.

18.16.040. Limitations on conditional uses.

- A. Conditional uses permitted by DCC 18.16.030(H) through (DD) may be established subject to 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 adjacent 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.

- B. A commercial activity allowed under DCC 18.16.030(H) shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced in Deschutes County or an adjoining county.

- C. A utility facility necessary for public use allowed under DCC 18.16.030(M) shall be one that is necessary to be situated in an agricultural zone in order for the service to be provided.

- D. A power generation facility that is part of a commercial utility facility for the purpose of generating power for public use by sale identified in DCC 18.16.030(O) and:

1. That is located on high-value farmland shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
 2. That is not located on high-value farmland shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
- E. No aircraft may be based on a personal-use airport identified in DCC 18.16.030(P) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use airport lawfully existing as of September 1, 1975, shall continue to be permitted subject to any applicable regulations of the Oregon Aeronautics Division.
- F. The facility for the primary processing of forest products identified in DCC 18.16.030(R) is intended to be portable or temporary in nature. Such a facility may be approved for a one-year period which is renewable.
- G. Batching and blending mineral and aggregate into asphaltic cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date of the application for batching and blending is filed.
- H. Accessory uses for golf courses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.
- I. An expansion of an existing golf course as allowed under DCC 18.16.033(C) shall comply with the definition of "golf course"

set forth in DCC Title 18 and the provisions of DCC 18.16.040(A).

- J. An applicant for a nonfarm conditional use may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.
(Ord. 2001-016 § 2, 2001; 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)

18.16.050. Standards for dwellings in the EFU zones.

Dwellings listed in DCC 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling:

- A. Farm-related dwellings on nonhigh value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.030(A), may be approved if it satisfies any of the alternative tests set forth below:
1. Acreage test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:
 - i. The parcel on which the dwelling will be located is at least:
 - (a) One hundred sixty acres and not in the Horse Ridge East subzone; or
 - (b) Three hundred twenty acres in the Horse Ridge East subzone;
 - ii. The subject tract is currently employed for farm use, as evidenced by a farm management plan;
 - iii. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing

- or caring for livestock, at a commercial scale;
 - iv. There is no other dwelling on the subject tract; and
 - v. The dwelling will be located on the least productive part of the parcel.
- 2. Median acreage/gross sales test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:
 - i. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;
 - ii. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a)(i);
 - iii. The subject tract is currently employed for farm use, as evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(ii);
 - iv. The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
 - v. There is no other dwelling on the subject tract; and
 - vi. The dwelling will be located on the least productive part of the parcel.
 - b. For the purpose of calculating appropriate tract sizes and gross incomes to satisfy DCC 18.16.050(A)(2)(a)(i) and (ii), the

County will utilize the methodology contained in Oregon Administrative Rules 660-33-135(3) using data on gross sales per acre tabulated by LCDC pursuant to Oregon Administrative Rules 660-33-135(4).

- 3. Gross annual income test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:
 - i. The subject tract is currently employed for a farm use that produced \$32,500 in gross annual income in the last two years or three of the last five years.
 - ii. There is no other dwelling on the subject tract;
 - iii. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in DCC 18.16.050(A)(3)(a)(i); and
 - iv. The dwelling will be located on the least productive part of the parcel.
 - b. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- B. Farm related dwellings on high value farmland.

On land identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be customarily provided in conjunction with farm use if:

- 1. The subject tract is currently employed for the farm use that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

2. There is no other dwelling on the subject tract;
 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income DCC 18.16.050(B)(1); and
 4. The dwelling will be located on the least productive part of the parcel.
- C. Accessory dwelling. A dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:
1. The accessory dwelling meets the following criteria:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - b. The accessory farm dwelling will be located:
 - i. On the same lot or parcel as the principal farm dwelling; or
 - ii. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - iii. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured home and a deed restriction substantially in compliance with the form set forth in Exhibit A to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to DCC 18.16.050 may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured home may remain if it is reapproved under DCC 18.16.050; and
 2. The principal farm dwelling to which the proposed dwelling would be accessory meets one of the following:
 - a. On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced \$32,500 in gross annual sales in the last two years or three of the last five years. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - b. On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years. Gross income shall be calculated by deducting the cost of purchased livestock from the total gross income attributed to the tract; and
 3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).
- D. Relative farm help dwelling.
1. A dwelling listed in DCC 18.16.030(B) is allowed when:

- a. The subject tract is at least 40 acres in size, unless it is demonstrated to the Planning Director or Hearings Body that a smaller unit of land is a commercial agricultural enterprise.
 - b. The subject tract is used for farm use;
 - c. The dwelling is a manufactured home and is sited in accordance with DCC 18.116.070, or is a pre-existing site-built home that: (1) was established at least 30 years prior to the date the conditional use permit was submitted and (2) is located on a parcel of at least 40 acres in size and that meets the minimum irrigated acres standard for the subzone within which it is located;
 - d. The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a grandparent, grandchild, parent, child, brother, or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the commercial farm use is or will be required by the farm operator.
 - e. The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.
 - f. Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator continues to play in the management and farm use of the farm.
2. A manufactured home permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured home shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
 3. A pre-existing dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
 4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.
 5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- E. Lot of record dwelling on nonhigh value farmland.
 1. A lot of record dwelling will be approved on nonhigh value farmland when all of the following requirements are met:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - i. Prior to January 1, 1985; or
 - ii. By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
 - d. If the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a

- single lot or parcel when the dwelling is allowed.
- e. The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
2. For purposes of DCC 18.16.050(E), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
- F. Lot of record dwelling on high-value farmland.
1. A lot of record dwelling will be approved on nonhigh value farmland when all of the following requirements are met:
 - a. The requirements set forth in DCC 18.16.050(E)(1)(a) through (e), as determined by the County; and
 - b. The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by a hearings officer of the State Department of Agriculture.
 2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall give its conditional approval under DCC 18.16.050(F)(1)(a) before forwarding an application made under DCC 18.16.050(F) to the State Department of Agriculture for hearing under DCC 18.16.050(F)(1)(b).
 3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.
- G. Nonfarm dwelling.
1. One single-family dwelling, including a manufactured home in accordance with DCC 18.116.070, not provided in conjunction with farm use may be permitted on an existing lot or parcel subject to the following criteria:
 - a. The Planning Director or Hearings Body shall make findings that:
 - i. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.
 - ii. The proposed nonfarm dwelling does not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
 - iii. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
 - iv. The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot, sales yard, slaughterhouse or poultry, hog or mink farm, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and

any other factor that may affect the livability of the nonfarm dwelling or the agriculture of the area.

- v. Road access, fire and police services and utility systems (i.e., electrical and telephone) are adequate for the use.
2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:
- a. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.
 - b. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable". A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.
 - c. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is

presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

- 3. Loss of tax deferral. Except as provided in DCC 18.16.050(I)(2), pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the parcel upon which the dwelling is proposed has been disqualified under ORS 308A.113 or ORS 308A.116 for special assessment at value for farm use under ORS 308A.062 or other special assessment under ORS 308A.068, 321.352, 321.730 or 321.815 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.
- H. Temporary hardship dwelling.
- 1. A dwelling listed in DCC 18.16.030(F) is allowed under the following conditions:
 - a. The dwelling is a manufactured home and is used in conjunction with an existing dwelling on the lot or parcel;
 - b. The manufactured home would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident;
 - c. The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and
 - d. The temporary manufactured home uses the same subsurface sewage disposal system used by the existing

dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling.

2. Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090(B) and (C) and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.
3. As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons. As used in DCC 18.16.050(H), the term "relative" means grandparent, grandchild, parent, child, brother or sister of the existing resident.

I. Wildlife conservation plan dwelling.

1. A dwelling listed in DCC 18.16.030(G) is allowed when the Planning Director or the Hearings Body finds that the proposed dwelling:
 - a. Is situated on a lot or parcel existing on November 4, 1993, that qualifies for a farm dwelling, as listed in DCC 18.16.030(A), or a nonfarm dwelling, as listed in DCC 18.16.030(C);
 - b. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - c. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - d. Will not be established on a lot or parcel that is predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the United States Natural Resources Conservation Service or any combination of such soils; and
 - e. Is the only dwelling situated on the affected lot or parcel.
2. For a wildlife conservation plan dwelling approval based upon nonfarm dwelling criteria, DCC 18.16.050(I) shall also apply. Unless prior to approval of a conditional use permit for a wildlife conservation plan dwelling the applicant

submits to the assessor certification demonstrating approval by Oregon Department of Fish and Wildlife of a wildlife conservation and management plan and its implementation, the conditional use permit shall contain a condition requiring that the applicant, prior to issuance of a building permit for such dwelling, either 1) submit certification to the assessor from ODFW demonstrating approval and implementation of a wildlife conservation and management plan qualifying under ORS 215.808 or 2) pay the tax penalties required by DCC 18.16.050(G)(3).

(Ord. 2001-016 § 2, 2001; Ord. 98-033 § 1, 1998; Ord. 98-030 § 1, 1998; Ord. 95-007 § 15, 1995; Ord. 94-026 § 1, 1994; Ord. 92-065 § 3, 1992; Ord. 91-038 §§ 2 and 3, 1991; Ord. 91-020 § 1, 1991)

18.16.055. Land divisions.

- A. General. A division of land in the exclusive farm use zone shall be identified on the land division application as either an irrigated land farm division, nonirrigated land nonfarm dwelling division or a nonfarm division for a use permitted by DCC 18.16.030 other than a dwelling. An irrigated land division is subject to subsection B below; a nonirrigated land division is subject to subsection C below; and a land division for a use other than a dwelling is subject to subsection D below.
- B. Irrigated land Farm division.
 1. An irrigated land farm division shall be subject to the minimum lot size requirements of DCC 18.16.065, Subzones, —0(A) and all applicable requirements of DCC Title 17. Notwithstanding the provisions of DCC 18.16.060(B),
 2. Partitions establishing parcels less than the EFU minimum lot size established under DCC 18.16.065, in EFU areas may be permitted to create one new parcels for a nonfarm dwellings that has

been approved under DCC 18.16.050(G) as follows:

- a. If the parent parcel is greater than the minimum lot size established under 18.16.065, and is less than 80 acres in size, one new nonfarm parcel may be created subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall meet the minimum lot size established under 18.16.065;
 - iii. All standards established under 18.16.050(G) for the dwelling shall be met;
 - iv. No minimum lot size shall be required for the nonfarm parcel.
 - v. The parcel for the nonfarm dwelling is generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
 - b. If the parent parcel is greater than the minimum lot size established under 18.16.065, and is greater than or equal to 80 acres in size, two new nonfarm parcels may be created subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall meet the minimum lot size established under 18.16.065;
 - iii. All standards established under 18.16.050(G) for the dwellings shall be met;
 3. The minimum size for new parcels for farm use does not mean that farm dwellings may be approved on the new parcels. New dwellings in conjunction with farm use must satisfy the criteria in DCC 18.16.050.
- C. Nonirrigated land farm dwelling division.
1. The minimum lot size for a nonirrigated land division is 80 acres.
 2. Notwithstanding 1 above, land divisions creating nonfarm parcels less than the minimum lot size may be allowed as follows:
 - a. If the parent parcel is greater than 80 acres in size, up to two new nonfarm parcels may be allowed subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall be at least 80 acres in size;
 - iii. All standards established under 18.16.050(G) for the dwellings shall be met;
 - iv. The minimum lot size for the nonfarm parcels is 5 acres.

- v. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
- b. If the parent parcel is greater than or equal to 40 acres and less than or equal to 80 acres, one new nonfarm parcel is allowed subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Parcels are not capable of producing more than 20 cubic feet per acre per year of wood fiber;
 - iii. Parcels are composed of at least 90 percent Class VII and VIII soils, or are composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock;
 - iv. Parcels shall not have established water rights for irrigation;
 - v. The minimum lot size is 5 acres;
 - vi. Be located outside of the Horse Ridge East subzone.
- c. Partitions in the Wildlife Area Combining Zones must meet the minimum lot sizes established under DCC 18.88.050.

~~2. Nonfarm subdivisions are prohibited. No more than three nonfarm parcels may be created from any one parent parcel existing as of the effective date of Ordinance 92-065.~~

- D. A Nonfarm division of land for a use listed under 18.16.030 other than a nonfarm dwelling. Such divisions shall be subject to the minimum lot size requirements of DCC 18.16.060(C) and the applicable partitioning standards, including the general partition standards set forth in DCC 17.22, the Subdivision and Partition Ordinance.
(Ord. 2002-016 § 1, 2002, Ord. 2001-016 § 2, 2001; Ord. 95-007 § 16, 1995; Ord. 94-026 § 2, 1994; Ord. 92-065 § 3, 1992)

18.16.060. Dimensional standards.

- A. The minimum parcel size for divisions of irrigated farm-parcels created subject to DCC Title 17 shall be as specified under DCC 18.16.065, "Subzones."
- B. The minimum parcel lot size for nonirrigated farm land divisions is as specified under DCC 18.16.055(C)-20 acres.
- C. The minimum lot area for all nonfarm-uses permitted by DCC 18.16.030(G) through (CC) shall be that determined by the Planning Director or Hearings Body to carry out the intent and purposes of ORS 215, DCC Title 18 and the Comprehensive Plan. In no case shall lot areas be less than one acre.
- D. Each lot shall have a minimum street frontage of 50 feet.
- E. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.
(Ord. 2002-016 § 1, 2002, Ord. 2001-016 § 2, 2001; Ord. 95-007 § 17, 1995; Ord. 93-043 § 3, 1993; Ord. 93-004 § 1, 1993; Ord. 92-065 § 3, 1992; Ord. 92-055 § 1, 1992; Ord. 91-038 §§ 1 and 2, 1991; Ord. 91-020 § 1, 1991)

18.16.065. Subzones.

- A. Lower Bridge.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

One hundred thirty acres of irrigated land ~~or 1991 assessed farm use value of \$31,850.~~

B. Sisters/Cloverdale.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

Sixty-three acres of irrigated land ~~or 1991 assessed farm use value of \$14,931.~~

C. Terrebonne.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-five acres of irrigated land ~~or 1991 assessed farm use value of \$8,365.~~

D. Tumalo/Redmond/Bend.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

Twenty-three acres of irrigated land ~~or 1991 assessed farm use value of \$5,451.~~

E. Alfalfa.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-six irrigated acres ~~or 1991 assessed farm use value of \$8,640.~~

F. La Pine.

A proposed farm division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-seven acres of irrigated land ~~or 1991 assessed farm use value of \$11,570.~~

G. Horse Ridge East. Minimum parcel size for farm division or for farm-related dwellings on existing parcels is 320 acres.

(Ord. 2002-016 § 1, 2002; Ord. 2001-016 § 2, 2001; Ord. 95-007 § 18, 1995; Ord. 92-065 § 3, 1992)

18.16.067. Farm management plans.

A. Contents. A farm management plan shall consist of the following components:

1. A written description of existing and/or proposed farm uses, including type of crops or livestock, size and location of areas for each use, and land or soil preparation required.
2. An assessment of the soils, climate and irrigation on the parcel demonstrating that the parcel is suitable for the current or proposed use outlined in DCC 18.16.067(A)(1).
3. A business plan, including a demonstration that markets exist for the product; estimates of gross sales or actual gross sales figures; estimated or actual figures concerning necessary expenditures; and a list of capital expenditures incurred or projected to be incurred in establishing the farm use on the parcel.
4. A written description of the farm uses in the area, including acreage, size and type of crop or livestock raised showing that the proposed plan is representative of similar farm uses, if any, in the area and will not conflict with the existing agriculture types.
5. For farm uses not currently practiced in the area, an analysis showing that the plan is representative of the type of agriculture proposed.

B. Conditional approvals.

1. For purposes of land use approval, in instances where at the time of application the subject land is not currently in farm use, a farm management plan will be deemed to demonstrate current employment of the land for farm use if:
 - a. The farm management plan establishes a level of farming that constitutes a farm use;
 - b. The farm management plan sets forth specific timelines for the completion of capital improvements (barns, fencing, irrigation, etc.) and for the establishment of the proposed farm use on the parcel; and
 - c. Land use approval is subject to a condition that no building permit for the farm dwelling can be issued prior to a determination that pursuant to

the farm management plan a farm use has been established on the subject land.

2. For purposes of determining under DCC 18.16.067 that a farm use has been established on the land, the County shall determine that the farm management plan has been implemented to the extent that the farm use has achieved the gross farm sales figure required under DCC 18.16.050.

(Ord. 2001-016 § 2, 2001; Ord. 95-007 § 19, 1995; Ord. 93-004 § 2, 1993; Ord. 92-065 § 3, 1992)

18.16.070. Yards.

- A. The front yard shall be 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector and 100 feet from a property line fronting on an arterial.
- B. Each side yard shall be a minimum of 25 feet, except that for nonfarm dwelling proposed on parcels or lots with side yards adjacent to a property currently employed in farm use, the side yard shall be a minimum of 100 feet.
- C. Rear yards shall be a minimum of 25 feet, except that for nonfarm dwellings proposed on parcels or lots with rear yards adjacent to a property currently employed in farm use, the rear yard shall be a minimum of 100 feet.
- D. 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 DCC 15.04 shall be met.

(Ord. 2001-016 § 2, 2001; Ord. 94-008 § 16, 1994; Ord. 93-004 § 3, 1993; Ord. 92-065 § 3, 1992; Ord. 91-038 §§ 1 and 2, 1991; Ord. 89-016 § 1, 1989; Ord. 83-037 § 8, 1983)

18.16.080. Stream setbacks.

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

(Ord. 2001-016 § 2, 2001; Ord. 91-038 §§ 1 and 2, 1991; Ord. 91-020 § 1, 1991)

18.16.090. Rimrock setback.

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160.

(Ord. 2001-016 § 2, 2001; Ord. 92-065 § 3, 1992; Ord. 91-038 § 1 and 2, 1991; Ord. 86-053 § 5, 1986)

Zoning Maps (Amended by Ord. 95-043 §§ 1 and 2, 1995; Ord. 94-052 § 1, 1994; Ord. 93-014 § 1, 1993; Ord. 92-064 § 1, 1992)

Exhibit A

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Whereas the undersigned _____ hereinafter referred to as "Declarant," is owner in fee simple of the property described in Exhibit A attached hereto and by this reference incorporated herein (the property); and

Whereas, Declarant has received approval to site a manufactured home on the property described herein pursuant to land use permit No. _____ for an accessory farm dwelling, issued by Deschutes County pursuant to Section 18.16.050(C) of the Deschutes County Code;

Whereas Section 18.16.050(C)(1)(b)(iii) requires as a condition of approval the recording of a deed restriction in favor of Deschutes County requiring that any manufactured home sited under said permit be removed prior to any further conveyance of this property; and

Whereas the Declarant desires to declare his/her intention to create covenants, conditions and restrictions necessary to effectuate and comply with the requirements of OAR 660-33-130(24)(a)(B)(iii) and Section 18.16.050(C) of the Deschutes County Code;

Declarant hereby declares that all of the property described in Exhibit A shall be held, sold and conveyed subject to the following covenants, conditions and restrictions in favor of Deschutes County:

Declarant shall cause to be removed any manufactured home sited on the property described herein pursuant to Deschutes County land use permit No. _____ for an accessory dwelling prior to any further conveyance of the property.

Declarant's obligations under this covenant shall not be extinguished by any subsequent conveyance made in disregard of these covenants, conditions and restrictions.

These covenants, conditions, and restrictions shall in addition run with the land and be binding upon any of the Declarant's successors in interest should the property be transferred in disregard of this covenant.

It is intended that this covenant shall have the same effect as a regulation designed to implement the comprehensive plan. This covenant may be enforced by Deschutes County by a suit in equity, or if Deschutes County fails to take such action, by any person described in ORS 215.188.

These covenants, conditions and restrictions shall be released by the County upon proof that the requirements set forth herein have been met.

Dated this _____ day of _____.

(Signature)

(notary seal)