



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/10/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 008-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, December 26, 2012

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Peter Gutowsky, Deschutes County
Jon Jinings, DLCD Community Services Specialist
Karen Swirsky, DLCD Regional Representative

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FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DATE STAMP

DEPT OF

DEC 06 2012

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Deschutes County**

Local file number: **PA 12-4**

Date of Adoption: **March 14, 2012**

Electronic / Date Mailed: **December 5 2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Date: **No.**

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation
amendments

☒ Other: Destination Resort Housekeeping

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

The Board of County Commissioners adopted amendments that reference Destination Resort goals and policies in the newly adopted Deschutes County Comprehensive Plan.

ORS 197.610(2), post-acknowledgment procedures were not initiated because the statewide planning goals do not apply to the legislative amendments. The amendments to the Comprehensive Plan, Section 3.9 just include the County's destination resort goals and policies and repeal DCC Chapter 23.84. No wording was changed.

Does the Adoption differ from proposal?

N/A

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☐ Yes ☒ No

If no, do the statewide planning goals apply?

☐ Yes ☒ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☒ No

DLCD file No. 008-12 (19620) [17258]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Deschutes County, Oregon Department of Land Conservation and Development

Local Contact: **Peter Gutowsky**

Phone: **(541) 385-1709** Extension:

Address: **117 NW Lafayette**

Fax Number: **541-385-1764**

City: **Bend**

Zip: **97701**

E-mail Address: **peterg@co.deschutes.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

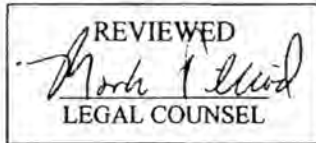
This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Certain Sections of the
Deschutes County Comprehensive Plan, and
Repealing Certain Sections of Title 23.

*
*
*

ORDINANCE NO. 2012-016

WHEREAS, on August 10, 2011, the Board of County Commissioners ("Board") adopted Ordinance 2011-003 to adopt the updated Comprehensive Plan in Title 23; and

WHEREAS, Deschutes County Code ("DCC") Chapter 23.84, Destination Resorts remained as a separate chapter in Title 23 to await a final opinion and order from the Land Use Board of Appeals ("LUBA") on Ordinance Nos. 2011-001 and 2011-002; and

WHEREAS, on September 6, 2012, LUBA's issued a final opinion and order in Case Nos. 2011-115/116 affirming the Board's adoption of Ordinance Nos. 2011-001 and 2011-002; and

WHEREAS, the Community Development Department planning staff initiated a Comprehensive Plan amendment in order to incorporate housekeeping changes to the updated Comprehensive Plan; and

WHEREAS, because no wording is being changed, merely moving the provisions in DCC Chapter 23.84 into the new format of the Comprehensive Plan does not require any findings regarding compliance with the statewide planning goals, state statutes or administrative rules or regarding consistency with other Comprehensive Plan provisions; and

WHEREAS, the amendments were reviewed by the Planning Commission on October 25, 2012; and

WHEREAS, a public hearing was held before the Board of County Commissioners on November 19, 2012, and the Board concluded that the public will benefit from changes to the Comprehensive Plan; now, therefore,

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

Section 1. AMENDING. DCC 23.01 is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 2. The Deschutes County Comprehensive Plan Chapter 3, Rural Growth Management, is amended to read as described in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 3. AMENDMENT. The Deschutes County Comprehensive Plan Chapter 5, Supplemental Sections, is amended to read as described in Exhibit "C," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 4. REPEALING. Deschutes County Code Chapter 23.84, Destination Resorts is repealed.

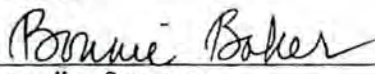
Dated this 3rd of December 2012

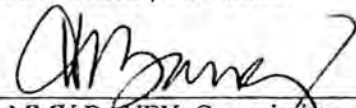
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


ANTHONY DeBONE, Chair


ALAN UNGER, Vice Chair

ATTEST:


Recording Secretary


TAMMY BANEY, Commissioner

Date of 1st Reading: 19th day of Nov., 2012.

Date of 2nd Reading: 3rd day of Dec., 2012.

Commissioner	Record of Adoption Vote			
	Yes	No	Abstained	Excused
Anthony DeBone	<u>✓</u>			
Alan Unger	<u>✓</u>			
Tammy Baney	<u>✓</u>			

Effective date: 4th day of March, 2012. 2013.

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
(Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord.2011-003 §3, 2011)

Section 3.9 Destination Resorts

Note—the existing destination resort comprehensive plan section is being retained.

Background

Since 1979 destination resorts have increased in importance to the economy of Deschutes County. In 1989, recognizing the importance of tourism to the economy of the State of Oregon, the state legislature and the Land Conservation and Development Commission ("LCDC") took steps to make it easier to establish destination resorts on rural lands in the state. Statewide Planning Goal 8, the recreation goal, was amended to specify a process for locating destination resorts on rural land without taking an exception to Goals 3, 4, 11 and 14, which govern development in rural resource lands. This was followed by legislation incorporating Goal 8 into Oregon's land use statutes. By these actions, the State of Oregon recognized destination resorts as a legitimate rural land use. Under these changes, destination resorts may be sited in EFU zones where they weren't allowed before.

Following the changes to the state regulations, because implementation of destination resort siting under Goal 8 was optional and the county had not undertaken that implementation, the developers of Eagle Crest applied for legislative changes in the County's comprehensive plan and implementing land use ordinances. The Eagle Crest developers wished to expand their current destination resort onto adjacent lands and wished to do so without going through the exceptions process. They were able to do so when the County adopted a destination resort overlay map. In order, Pronghorn, Caldera Springs, and Tetherow resorts have been sited since that time. Resorts existing prior to the legislative change, such as Black Butte, Sunriver and the Inn of the Seventh Mountain have also expanded and been rezoned to Urban Unincorporated Community and Resort Community, respectively.

In March 1990, LCDC adopted the "forest rule." This rule allows destination resorts to be sited on forest lands pursuant to Goal 8. The county adopted this rule for land zoned Forest Use-2. Additionally, the legislature, in 2003, amended the state statutes, adding new language allowing counties to remap eligible lands for destination resorts not more frequently than once every thirty (30) months. Remapping is now dependent on creating a process for collecting and processing all proposed map amendments submitted to the county within that thirty (30) month planning period.

In order to allow destination resorts within the county, Goal 8 requires that Deschutes County adopt a map showing which lands are available for destination resort development. The purpose of the map is to provide greater certainty concerning destination resort siting than is available under the exceptions process. To protect forest and farm resources, Goal 8 prescribes that certain classes of lands are off limits to destination resort development. The final map must reflect exclusion of such areas. However, although a property is mapped as eligible for a destination resort, a destination resort may not be permitted outright in that location. In order to be approved, a proposal for a resort must be processed as a conditional use and must comply with the specific standards and criteria established by the county for destination resorts.

Goal 8 and the state statute also recognize that destination resorts can have negative impacts on neighborhoods, transportation facilities and the rural quality of life. These impacts can, however,

be substantially mitigated. The County recognizes the importance of balancing protection mechanisms for resource lands and rural land uses with the economic benefits destination resorts provide. The County further recognizes that this balance can be struck by the manner in which areas are designated as being available for destination resort development and by establishing thorough siting criteria. In establishing these thorough siting criteria, the County recognizes that it has the option to be more restrictive than state law in the areas it chooses to exclude from destination resort siting through the mapping process.



Section 3.9 Destination Resort Policies

Goals and Policies

- Goal 1** To provide for development of destination resorts in the County consistent with Statewide Planning Goal 8 in a manner that will be compatible with farm and forest uses, existing rural development, and in a manner that will maintain important natural features, such as habitat of threatened or endangered species, streams, rivers and significant wetlands.
- Goal 2** To provide a process for the siting of destination resorts on rural lands that have been mapped by Deschutes County as eligible for this purpose.
- Goal 3** To provide for the siting of destination resort facilities that enhances and diversifies the recreational opportunities and economy of Deschutes County.
- Goal 4** To provide for development of destination resorts consistent with Statewide Planning Goal 12 in a manner that will ensure the resorts are supported by adequate transportation facilities.
- Policy 3.9.1** Destination resorts shall only be allowed within areas shown on the "Deschutes County Destination Resort Map" and when the resort complies with the requirements of Goal 8, ORS 197.435 to 197.467, and Deschutes County Code 18.113.
- Policy 3.9.2** Applications to amend the map will be collected and will be processed concurrently no sooner than 30 months from the date the map was previously adopted or amended.
- Policy 3.9.3** Mapping for destination resort siting.
- a. To assure that resort development does not conflict with the objectives of other Statewide Planning Goals, destination resorts shall pursuant to Goal 8 not be sited in Deschutes County in the following areas:
 1. Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management of the resort;
 2. On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the Soil Conservation Service or within three miles of farm land within a High-Value Crop Area;
 3. On predominantly Cubic Foot Site Class 1 or 2 forest lands which are not subject to an approved Goal exception;
 4. On areas protected as Goal 5 resources in an acknowledged comprehensive plan where all conflicting uses have been prohibited to protect the Goal 5 resource;
 5. Especially sensitive big game habitat, and as listed below, as generally mapped by the Oregon Department of Fish and Wildlife in July 1984 and

as further refined through development of comprehensive plan provisions implementing this requirement.

- i. Tumalo deer winter range;
 - ii. Portion of the Metolius deer winter range;
 - iii. Antelope winter range east of Bend near Horse Ridge and Millican;
6. Sites less than 160 acres.

b. To assure that resort development does not conflict with Oregon Revised Statute, destination resorts shall not be sited in Deschutes County in Areas of Critical State Concern.

c. To assure that resort development does not conflict with the objectives of Deschutes County, destination resorts shall also not be located in the following areas:

1. Sites listed below that are inventoried Goal 5 resources, shown on the Wildlife Combining Zone, that the County has chosen to protect:
 - i. Antelope Range near Horse Ridge and Millican;
 - ii. Elk Habitat Area; and
 - iii. Deer Winter Range;
2. Wildlife Priority Area, identified on the 1999 ODFW map submitted to the South County Regional Problem Solving Group;
3. Lands zoned Open Space and Conservation (OS&C);
4. Lands zoned Forest Use I (F-1);
5. Irrigated lands zoned Exclusive Farm Use (EFU) having 40 or greater contiguous acres in irrigation;
6. Non-contiguous EFU acres in the same ownership having 60 or greater irrigated acres;
7. Farm or forest land within one mile outside of urban growth boundaries;
8. Lands designated Urban Reserve Area under ORS 195.145;
9. Platted subdivisions;

d. For those lands not located in any of the areas designated in Policy 3.9.3(a) though (c), destination resorts may, pursuant to Goal 8, Oregon Revised Statute and Deschutes County zoning code, be sited in the following areas:

1. Forest Use 2 (F-2), Multiple Use Agriculture (MUA-10), and Rural Residential (RR-10) zones;
2. Unirrigated Exclusive Farm Use (EFU) land;
3. Irrigated lands zoned EFU having less than 40 contiguous acres in irrigation;
4. Non-contiguous irrigated EFU acres in the same ownership having less than 60 irrigated acres;
5. All property within a subdivision for which cluster development approval was obtained prior to 1990, for which the original cluster development approval designated at least 50 percent of the development as open space and which was within the destination resort zone prior to the effective date of Ordinance 2010-024 shall remain on the eligibility map;
6. Minimum site of 160 contiguous acres or greater under one or multiple ownerships;

- e. The County shall adopt a map showing where destination resorts can be located in the County. Such map shall become part of the Comprehensive Plan and Zoning Ordinance and shall be an overlay zone designated Destination Resort (DR).

Policy 3.9.4 Ordinance provisions.

- a. The County shall ensure that destination resorts are compatible with the site and adjacent land uses through enactment of land use regulations that, at a minimum, provide for the following:
 - 1. Maintenance of important natural features, including habitat of threatened or endangered species, streams, rivers, and significant wetlands; maintenance of riparian vegetation within 100 feet of streams, rivers and significant wetlands; and
 - 2. Location and design of improvements and activities in a manner that will avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on intensive farming operations in the area and on the rural transportation system. In order to adequately assess the effect on the transportation system, notice and the opportunity for comment shall be provided to the relevant road authority.
 - 3. Such regulations may allow for alterations to important natural features, including placement of structures, provided that the overall values of the feature are maintained.
- b. Minimum measures to assure that design and placement of improvements and activities will avoid or minimize the adverse effects noted in Policy 3.9.4(a) shall include:
 - 1. The establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fenced, berms, landscaped areas, and other similar types of buffers.
 - 2. Setbacks of structures and other improvements from adjacent land uses.
- c. The County may adopt additional land use restrictions to ensure that proposed destination resorts are compatible with the environmental capabilities of the site and surrounding land uses.
- d. Uses in destination resorts shall be limited to visitor- oriented accommodations, overnight lodgings, developed recreational facilities, commercial uses limited to types and levels necessary to meet the needs of visitors to the resort, and uses consistent with preservation and maintenance of open space.
- e. The zoning ordinance shall include measures that assure that developed recreational facilities, visitor-oriented accommodations and key facilities intended to serve the entire development are physically provided or are guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilitated intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.



Community Development Department

117 NW Lafayette Avenue • Bend, Oregon 97701-1925

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*Attention: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR
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JABMPSB 97301

