



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

June 3, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 002-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 22, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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 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 DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Kristen Maze, Deschutes County

<paa> ya

2 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



Jurisdiction: Deschutes County Local file number: TA-06-10
Date of Adoption: 5-12-08 Date Mailed: 5-22-08
Date original Notice of Proposed Amendment was mailed to DLCD: 1-12-07

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____



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

This code amendment adds definitions to Deschutes County Code section 18.04.030 for Amateur Radio Facilities and Amateur Radio Services and adds section 18.116.290 Amateur Radio Facilities criterion. Also this amendment lists amateur radio facilities as a building height exception.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Plan Map Changed from: _____ to: _____
Zone Map Changed from: _____ to: _____
Location: _____ Acres Involved: _____
Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? YES NO

DLCD File No.: 002-07 (15802)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

FCC, FAA - ODA

Local Contact: Kristen Phone: (541) 383 6701 Extension: _____

Address: 117 NW Lafayette City: Bend

Zip Code + 4: 97704 Email Address: kristenm@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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.


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 copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, of the Deschutes County Code to Regulate Amateur Radio Facilities. *
* ORDINANCE NO. 2008-007

WHEREAS, the Deschutes County Planning Division requested a text amendment to add provisions to regulate amateur radio facilities, and

WHEREAS, notice of public hearing before the Board of County Commissioners ("Board") was included in the tax statements and mailed to all property owners within the unincorporated county; and

WHEREAS the Planning Commission considered this matter after a public hearings on February 8, 2007 and February 22, 2007 and forward changes to the zoning regulations for amateur radio facilities to the Board; and

WHEREAS the Board considered this matter after public hearings were held November 26, 2007 and February 25, 2008 and concluded that the public will benefit from changes to the land use regulations; now, therefore,

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

Section 1. AMENDMENT. DCC 18.04.030, Definitions 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. ADDITION. DCC 18.116.290, Amateur Radio Facilities, is added to read as described in Exhibit "B," attached hereto and by this reference incorporated herein,

Section 3. AMENDMENT. DCC 18.120.040, Building Height Exceptions 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. FINDINGS. The Board of Commissioners adopts as its findings in support of this amendment as in Exhibit "D" attached and incorporated by reference herein.

Dated this 19th of May, 2008

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Voted 20
DENNIS R. LUKE, CHAIR

Tammy Melton
TAMMY MELTON, VICE CHAIR

ATTEST:

Bonnie Baker
Recording Secretary

Michael M. Daly
MICHAEL M. DALY, COMMISSIONER

Date of 1st Reading: 5th day of May, 2008.

Date of 2nd Reading: 19th day of May, 2008.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Dennis R. Luke		✓		
Tammy Melton	✓			
Michael M. Daly	✓			

Effective date: 18th day of August, 2008.

ATTEST:

Bonnie Baker
Recording Secretary

**** Denotes section of the Code not amended in Ordinance 2008-007

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.010. Title.

18.04.020. Purpose.

18.04.030. Definitions.

18.04.010. Title.

DCC Title 18 shall be known as the Deschutes County Zoning Ordinance of 1979.
(Ord. 91-020 § 1, 1991)

18.04.030. Definitions.

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030.

“Amateur Radio Facilities” means the external, outdoor structures associated with an operator’s amateur radio service. This includes antennae, masts, towers, guy wires, and other antenna support structures that consist of solid tubular or open lattice metal structure not exceeding 25 inches on average in diameter or face width.

“Amateur (“Ham”) Radio Services” means radio communication services, including amateur-satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.

(Ord. 2008-007 § 1, 2008)

*** Denotes section of the Code not amended in Ordinance 2008-0XX

Chapter 18.116. SUPPLEMENTARY PROVISIONS

- 18.116.010. Authorization of Similar Uses.
- 18.116.020. Clear Vision Areas.
- 18.116.030. Off-Street Parking and Loading.
- 18.116.031. Bicycle Parking.
- 18.116.035. Bicycle Commuter Facilities.
- 18.116.040. Accessory Uses.
- 18.116.050. Manufactured Homes.
- 18.116.070. Placement Standards for Manufactured Homes.
- 18.116.080. **Manufactured Home or RV as a Temporary Residence on an Individual Lot.**
- 18.116.090. **A Manufactured Home as a Temporary Residence for Medical Condition.**
- 18.116.095. **Recreational Vehicle as a Temporary Residence on an Individual Lot.**
- 18.116.100. Building Projections.
- 18.116.200. Repealed.
- 18.116.120. Fences.
- 18.116.130. Hydroelectric Facilities.
- 18.116.140. Electrical Substations.
- 18.116.150. Endangered Species.
- 18.116.160. Rimrock Setbacks Outside of LM Combining Zone.
- 18.116.170. Solar Height Restrictions.
- 18.116.180. Building Setbacks for the Protection of Solar Access.
- 18.116.190. Solar Access Permit.
- 18.116.200. Repealed.
- 18.116.210. Residential Homes and Residential Facilities.
- 18.116.215. Family Childcare Provider.
- 18.116.220. Conservation Easements on Property Adjacent to Rivers and Streams-Prohibitions.
- 18.116.230. Standards for Class I and II Road Projects.
- 18.116.240. Protection of Historic Sites.
- 18.116.250. Wireless Telecommunications Facilities.
- 18.116.260. Rock Crushing Outside the SM Zone.
- 18.116.270. Conducting Filming Activities in All Zones.
- 18.116.280. Home Occupations.
- 18.116.290. Amateur Radio Facilities

18.116.290 Amateur Radio Facilities

- A. Amateur radio facilities shall meet the following criteria:
- 1. Antenna support structures, including guy wires and anchors shall be located outside of the required front, rear and side yard setbacks;
 - 2. Metal structures shall have a galvanized finish, or flat or matte silver, or flat or matte gray in color;
 - 3. Amateur radio facilities shall not include attached signage, symbols, or decorations, lighted or otherwise, other than required unlighted signage for safety or regulatory purposes;

4. The property owner shall obtain a valid building permit if required from the Deschutes County Community Development Department, Building Safety Division;
5. Compliance with Federal Regulations
 - a. The property owner shall demonstrate compliance with applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and Oregon Department of Aviation (ODA) restrictions.
 - b. Compliance may be demonstrated by submitting copies of the FCC's, FAA's, and ODA's written determination to the Deschutes County Community Development Department, Building Safety Division at time of application for a building permit; and
6. FCC License
 - a. The property owner shall provide documentation of a current, valid FCC Amateur Radio License for the operation of amateur ("Ham") radio services in the name of property owner.
 - b. Compliance may be demonstrated by submitting a copy of the property owner's Amateur Radio License to the Deschutes County Community Development Department, Building Safety Division at time of application for a building permit.

(Ord. 2008-007 § 2, 2008)

Chapter 18.120. EXCEPTIONS

- 18.120.010. Nonconforming Uses.
- 18.120.020. Nonconforming Lot Sizes.
- 18.120.030. Exceptions to Yard Requirements.
- 18.120.040. Building Height Exceptions.
- 18.120.050. Fill and Removal Exceptions.

18.120.040 Building height exceptions.

- A. The following structures or structural parts are not subject to the building height limitations of DCC Title 18:
 - 1. chimneys, not more than three feet six inches above the highest point of the roof; vertical support structures for telephone and power transmission lines in utility easements or public rights-of-way, not requiring a site plan review as defined in DCC 18.124.060; flagpoles not exceeding 40 feet; and agricultural structures as defined in DCC 18.04.030 not exceeding 36 feet, and amateur radio facilities as outlined in DCC Title 18.116.290. This exception does not apply to an Airport Development Zone, Airport Safety Combining Zone or Landscape Management Combining Zone.
- B. The following structures or structural parts may receive exceptions to the building height limitations of DCC Title 18 if approved as part of a Site Plan Review, as defined in DCC 18.124.060 and subject to the criteria contained therein, public schools, vertical support structures for telephone and power transmission lines requiring a site plan, structures that are necessary for public safety and flagpoles. This exception does not supercede the more restrictive requirements that are found in the Airport Safety Combining Zone or Landscape Management Combining Zone.
- C. An exception (up to 36 feet) to the building height limitations for structures not otherwise exempted by DCC 18.120.040(A) may be approved upon findings that:
 - 1. The structure is not located in a Landscape Management Zone, except when the structure is a single-family dwelling with an attached hangar located in an unincorporated community and the structure has a maximum height of 35 feet including chimneys, antennas, flagpoles or other projections from the roof of the structure;
 - 2. The structure is not located within 100 feet of any rimrock, as defined in DCC 18.04.030;
 - 3. After consultation with the applicable fire department, the proposed height does not exceed the height limitation of the department's fire fighting equipment, considering the evacuation of the building's occupants and the fire fighting requirements of the department; and
 - 4. The proposed additional height will not adversely impact scenic views from existing nearby residences.
 - 5. The proposed structure shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.
- D. An exception to building height limitations for agricultural structures may be approved upon findings that the applicant meets the criteria listed in DCC 18.120.040(C)(1) through (3) and demonstrates that the proposed structure is:
 - 1. An agricultural structure as defined in DCC 18.04.030;
 - 2. Located in an EFU or Forest zone; and
 - 3. Necessary to conduct generally accepted farming practices that are typical or customary of Deschutes County farmers who are regularly involved in the proposed type of agriculture. The applicant shall document satisfaction of this criterion by submitting evidence or testimony from an authorized representative of the Deschutes County Farm Bureau.

(Ord. 2008-007 § 3, 2008, Ord. 2001-033 §1, 2001; Ord. 2001-004 §3, 2001; Ord. 98-035 §1, 1998; Ord. 96-035 §1, 1996; Ord. 93-043 §20C, 1993; Ord. 92-055 §10, 1992; Ord. 92-036 §1, 1992)



Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

FINDINGS

TO: Deschutes County Board of County Commission
FROM: Kristen Maze, Associate Planner
DATE: April 22, 2008
SUBJECT: Findings for Amateur Radio Text Amendment TA-06-10

PURPOSE

The Deschutes County Board of County Commissioners (Board) held public hearings on the Amateur Radio Facilities text amendment that was withdrawn by the applicant, staff presented this proposed text amendment at three work sessions and a public hearing with the Board as a county initiated amendment that modifies Deschutes County Code (DCC) Section 18.040.030, Definitions, to include Amateur Radio Facilities and Amateur (Ham) Radio Services and amending Section 18.120.040, Building Height Exceptions, adding limitations for Amateur Radio Facilities

BACKGROUND

The initial text amendment application was filed by the Central Oregon DX Club (Club) after a county enforcement file was opened for which the owner of the amateur radio facility was issued a Notice of Violation for exceeding the 30 foot height limitation in the Exclusive Farm Use zone. The Planning Commission held four work sessions and two public hearings on the proposed text amendment. The Planning Commission listened to considerable public testimony both for and against proposed regulations for placement of amateur radio facilities. Subsequent to the Planning Commission recommendation, the Club withdrew its application and the proposed text amendment became a Deschutes County Community Development Department ("CDD") staff initiated proposal. The Board initially heard this on November 26, 2007 and after two work sessions, requested that staff arrange and provide notice for an additional hearing on February 25, 2008 in order to receive comments on the Board's draft text amendment

The following is a summary of the background for the current Deschutes County amateur radio facilities regulations.

- In 2000-2001 Deschutes County considered adopting regulations for amateur radio antennas. The issue was considered with revisions to regulations of wireless telecommunications facilities. However, no ordinance specifically mentioning amateur radio was adopted, in the interim, the county has not regulated amateur radio antennas except as a structure over 30 feet.
- Additionally, specific exemption to height limitations for radio and other similar projections that was in the DCC, section 18.120.040, was removed at that time (May, 2001).
- Currently, the Deschutes County Community Development Department applies the general restrictions of building height to the County Code for amateur radio facilities. This would require an amateur radio facility applicant to meet the height exception requirement, generally 30 feet, or fall under the specific zone area height requirements. However, state law requires the county to not restrict amateur radio facilities 70 feet or lower unless the county can achieve a clearly defined health, safety or aesthetic objective and regulation is "the minimum practicable regulation necessary to accomplish the purpose of the city or county." (See ORS 221.295 Page 3)

APPLICANT PROPOSAL

The proposed text amendment initiated by the Club was based originally on the City of Beaverton's amateur radio ordinance. The amendment would:

1. add definitions for "Amateur Radio Facilities" and "Amateur (Ham) Radio Services" to DCC 18.04.030.
2. modify the Building Height Exceptions to allow for all amateur radio facilities in zones other than the Landscape Management Combing zone with a valid building permit if required by the Deschutes County Building Safety Director, including compliance with the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and Oregon Department of Aviation (ODA), and with proof of a valid FCC Amateur Radio License at the time of building permit application (DCC 18.120.040).

Through the Planning Commission work sessions and public hearings the applicant's original proposal was modified with approval by the applicant, to be the "streamline version", which is Exhibit "B" section 18.116.290 (A), attached and incorporated by reference. Because the Planning Commission's ultimate recommendation included more provisions than the streamline version, the applicant withdrew its proposal.

PLANNING COMMISSION RECOMMENDATION AND VOTE

The Planning Commission identified aesthetic concerns regarding amateur radio facilities over 75 feet in height. These concerns became evident as a result of opposition to the proposed text amendment and site visits by some Planning Commissioners. The Commissioner's voiced their concerns over the unsightly appearance of the amateur radio facilities next door to other residence and the fact that these facilities could interfere with neighbor's views. The Planning Commission voted four to two on the following motion;

"Amateur radio facilities greater than 75 feet in height including retractable facilities to less than 75 feet shall be harmonious to the natural environment and existing development, minimize visual impacts and preserve natural features including view and topographical features of the surrounding lands associated with the amateur radio facility

and shall include site plan language from DCC 18.128.340 Wireless Telecommunications Facilities”.

This motion also included aesthetic findings required by state statute.

There was some confusion with the proposed motion regarding the inclusion of retractable amateur radio facilities. The Planning Commission's intent was to exclude amateur radio facilities that can be retracted to less than 75 feet in height from the more restrictive site plan requirements of DCC 18.128.340 Wireless Telecommunications Facilities. The recommended language is intended to address neighborhood meetings, site plan review and acknowledgement by the neighbors adjacent to the amateur radio facilities. Specifically, the Planning Commission recommended that the Board include language that would address amateur radio facilities over 75 feet in height with the incorporation of the Wireless Telecommunications Facilities language in DCC 18.128.340 (A) (1) (3) (d-i) and (B) (3,4,5,10).

ANALYSIS

The state law Deschutes County must follow for setting amateur radio facility standards is established by Oregon Revised Statute (ORS) 221.295.

221.295 Ordinances regulating placement or height of radio antennas.

Notwithstanding ORS chapters 215 and 227, a city or county ordinance based on health, safety or aesthetic considerations that regulate the placement, screening or height of the antennas or antenna support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the city or county. However, a city or county may not restrict antennas or antenna support structures of amateur radio operators to heights of 70 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety or aesthetic objective of the city or county. [1999 c.507 §1]

This ORS is based on state and federal law, namely the FCC ruling in PRB-1, codified in 47 CFR Part 97, and case law from other states and federal courts since 1985 that restrict regulation of amateur radio towers and antennas by local government authorities. Any limits or restrictions placed on amateur radio facilities must be linked to a clearly defined health, safety, or aesthetic objective.

The **applicant's proposal** as modified in the “streamline version” provides minimum requirements to the amateur radio operator.

- The proposal permits outright amateur radio facilities at any height provided the applicant obtains a building permit, a FCC amateur radio license, and satisfies the yard setbacks and design criteria.

The **Planning Commission's recommendation** is more restrictive than state statute.

- This recommendation would add a new Amateur Radio section 18.116 with specific site plan review criteria for amateur radio facilities over 75 feet in height.

It is essential that in setting regulations for amateur radio facilities, the Board adhere to the State Statute. ORS 221.295 clearly maintains that regulation of the placement, screening or height of the antennas or antenna support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation to accomplish the County's' purpose.

Staff presented the two proposed text amendments to the Board. Following significant review, **the Board** determined that a variation of the Planning Commission's recommendation would address health, safety and aesthetic concerns, and best meet the needs of the public with the minimum practicable regulations.

The Board initially proposed the adoption of the following amateur radio text amendment:

- Amateur radio facilities 70 feet or less must obtain a building permit, a FCC amateur radio license, and satisfy the yard setbacks and design criteria.
- Amateur radio facilities over 70 feet in height, or are retractable facilities that exceed 70 feet at full height, or more than one amateur radio facility of any height on a property must meet specific amateur radio site plan review requirements outline in Exhibit "B" section 18.116.290 (B).

The Board held a public hearing on February 25, 2008 to discuss the proposed amateur radio text.

Following the February 25, 2008 public hearing before the Board, the Board conducted work sessions to review the public testimony, the written record, state statute and staff recommendations. The Board made changes and determined that the amateur radio text amendment in the streamline version would comply with state and federal law and meet Deschutes County purposes. The text as proposed will permit amateur radio facilities at any height provided the applicant obtains a building permit, a FCC amateur radio license, and satisfies the yard setbacks and design criteria.

REVIEW CRITERIA

The proposed amendment revises the DCC Title 18 to permit amateur radio facilities consistent with ORS 221.295. The proposed amendment is a public policy issue. Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative zoning text amendment. However, Deschutes County is required to comply with State and Federal law regarding amateur radio facilities. The parameters for evaluating this text amendment are based on whether there are adequate factual findings that demonstrate consistency with state and federal law, the statewide Planning Goals, the Deschutes County Comprehensive Plan, and Zoning Code.

STATEWIDE PLANNING GOALS AND FINDINGS

Goal 1 Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: Goal 1 is satisfied through our County text amendment process that includes a Planning Commission work session, followed by a Planning Commission public hearing, completed with County Board of Commissioners work session and public hearing.

Goal 2 Land Use Planning. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Deschutes County has established a process and policy framework to assure that decisions rendered by the county on land use applications have an adequate factual basis.

No exceptions to the Statewide Planning Goals are requested with this text amendment. The Staff report and accompanying materials contain the necessary facts for adoption of the proposed text amendments.

Goal 3 Agricultural Lands. To preserve and maintain agricultural lands.

Finding: Because state and federal laws do not allow for complete prohibition of amateur radio facilities, providing regulations that require a building permit will help insure that such facilities are safe and will not endanger the use of any applicant or neighbors' property for farm use.

Goal 4 Forest Lands. To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Because state and federal laws do not allow for complete prohibition of amateur radio facilities, providing regulations and design criteria will help insure that such facilities are safe and will not endanger or interfere with the use of any applicant or neighbors' property for forest use.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces. To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: This text amendment will maintain the county identified scenic views along the rivers and scenic corridors of Deschutes County. The Landscape Management Combining zone currently has established criteria that limits all structures to a maximum of 30 feet in height along scenic corridors and rivers, and requires site plan review to maintain structures compatible with the site and existing scenic vistas. Because state and federal laws do not allow for complete prohibition of amateur radio facilities, the proposed text amendment will adhere to the Landscape Management combining zone requirements thereby insuring that such facilities do not interfere with County Goal 5 resources.

Goal 6 Air, Water and Land Resources Quality. To maintain and improve the quality of the air, water and land resources of the state.

Finding: The proposed text amendments will have no effect upon the air, water and land resources quality in Deschutes County because the areas where the facilities will be allowed are established residential sites.

Goal 7 Areas Subject to Natural Hazards. To protect people and property from natural hazards.

Finding: This text amendment establishes criteria through the building permit process to protect people and property from the risks of natural hazards in Deschutes County.

Goal 8 Recreation Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: This is not a destination resort or recreational facility therefore this Statewide Planning Goal is not applicable to this text amendment.

Goal 9 Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: This text amendment does not include future development therefore; this Statewide Planning Goal is not applicable to this text amendment. Additionally, the proposed facilities are for amateur radio use, not commercial radio use.

Goal 10 Housing. To provide for the housing needs of citizens of the state.

Finding: This Statewide Planning Goal is not applicable to this text amendment because this is not a housing use.

Goal 11 Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: As the affected properties are outside of Urban Growth Boundaries and will not be served through extensions of urban services unless they already exist, this Statewide Planning Goal is not applicable to this text amendment.

Goal 12 Transportation. To provide and encourage a safe, convenient and economic transportation system.

Finding: The proposed text amendments will have no effect on the transportation system. This Statewide Planning Goal is not applicable to this text amendment because they do not involve the use of any transportation system other than the transportation of the equipment and amateur radio facility to the individual properties

Goal 13 Energy Conservation. To conserve energy.

Finding: This goal is not affected because this proposed text amendment address amateur radio facilities which large amounts of electricity or any other sources of energy are not required for their use.

Goal 14 To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: This goal is not applicable because this amendment is not a proposal for expansion of an urban growth boundary is not a proposal for the expansion of public facilities. Additionally, state and federal law regarding amateur radio do not allow for complete prohibition of amateur radio facilities.

Statewide Planning Goals 15 – 19 are goals that do not apply to Deschutes County

Deschutes County Comprehensive Plan:

The proposed amendment would satisfy the Deschutes County Comprehensive Plan goals and policies. Aesthetic findings for the preservation of scenic values and appearances within the identified river and scenic corridors, zoned as Landscape Management Combining district throughout rural Deschutes County are based on the Comprehensive Plan statement below.

- **Chapter 23.96 Open Spaces, Areas of Special Concern, and Environmental Quality** states in Goal 1: "To conserve open spaces and areas of historic, natural or scenic resources." The policies section identifies the Landscape Management Combining zone. Specifically, Policy 6 states "Its primary purpose is to require site plan review to maintain structures compatible with the site and existing scenic vistas, rather than establish arbitrary standards for appearance or to otherwise restrict construction of appropriate structures."

STATE STATUTE 221.295 FINDING

The Board finds that these criteria are the minimum practicable regulations because they would allow for the use of the amateur radio facilities and still provide for public safety. The requirement for a building permit would help assure the facilities are structurally sound. The requirement for the facilities to stay within the yard setbacks allows for more room for safe traversing of the property around the facility without trespassing on adjacent properties. The design criterion ensures that the facilities are not shiny and they don't attract lights and decorations not associated with the proposed use. The required FCC license will make sure that the amateur radio operators understand the regulations and are knowledgeable about operating a facility. The FAA and ODE compliance will ensure compliance with airport safety.

After much consideration the Board finds that the proposed amateur radio text amendment reasonably accommodates the amateur radio communications and meets the minimum practicable regulation necessary to accomplish the health, safety, and aesthetic purpose of Deschutes County.

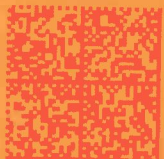
PUBLIC NOTICE

A public hearing notice was sent to all Deschutes County residents that have participated in both the Planning Commission hearing and the first Board of County Commissioners public hearing. This notice was sent out 10 days prior to the hearing date of February 25, 2008. Additionally, notice of initial hearing before the Planning Commission was sent and published January 28, 2007 and notice to the Board's November 25, 2007 hearing was sent and published November 11, 2007.



02 1M
0004235751
MAY 22 2008
MAILED FROM ZIP CODE 97701

\$ 01.34⁰



Deschutes County Community Development Department

117 NW LAFAYETTE AVENUE
BEND, OREGON 97701-1925
(541) 388-6575

Attn: Plan Amendment Specialist
Dept of Land Conservation and Development
635 Capitol Street, NE, Suite #150
Salem, OR 97301-2540