

Attachment 2: Proposed Findings 247-23-000391-TA

FINDINGS

I. PROPOSAL SUMMARY

This is a legislative text amendment to Deschutes County Code (DCC), Title 18 County Zoning, to repeal Chapter 18.92, Conventional Housing Combining (CHC) Zone.

Staff is proposing the following revisions to complete this text amendment:

- Repeal of section 18.92 Conventional Housing Combining Zone from the Deschutes County Code
- Zoning Map Amendment to repeal the Conventional Housing Combining Zone

II. BACKGROUND

The CHC Zone serves as an overlay zone and restricts placement of manufactured or prefabricated homes in specific areas of the County with the following stated purpose:

*“To provide a variety of residential environments in rural areas by maintaining areas reserved for conventional and modular housing permanently attached to real property”.*¹

Deschutes County adopted the CHC Zone in 1979 as part of Ordinance PL-15, the County’s Zoning Ordinance. The CHC Zone applies to three areas – an area to the east of Tumalo, west of Tumalo and east of Bend as shown in the map in Attachment 2. From staff research, this overlay zone appears to have been created by petition of property owners, although specific findings for the intent of the zone and its location are not available in county records.

In 2020, the County produced a Rural Housing Profile, which outlined several potential strategies for removing barriers to housing production in rural Deschutes County. The repeal of the CHC Zone was listed as a strategy as it would give those properties the potential to provide affordable housing in the form of mobile or manufactured homes, which are less expensive alternatives to stick-built or modular housing.

In addition to this, on March 23, 2022, Oregon House Bill 4064 became effective. The bill amended several sections of Oregon Revised Statute which clarified that local governments may not prohibit siting of prefabricated structures in residential zones where traditional single-family homes or other common dwelling types were allowed. Although the amendments were primarily targeted toward cities and urban growth boundaries, Section 4, ORS 197.312 OR was revised to limit both city and county jurisdictions’ ability to prohibit manufactured prefabricated homes in residential zones.

¹ DCC 18.92.010

The CHC Zone impacts approximately 505 properties. The tables below break down the zoning of the properties within the CHC Zone. Staff notes that of the 505 properties, 381 of them have at least some portion of the property within a resource zone and 128 have at least some portion of the property within a residential zone.

Single Base Zoned Properties

Zone	Number of properties
<i>Resource Zones</i>	
Exclusive Farm Use (EFU)	353
Forest Use (F1/F2)	4
Open Space and Conservation (OSC)	3
<i>Total Resource Zoned Properties: 360</i>	
<i>Residential Zones</i>	
Multiple Use Agricultural (MUA10)	83
Rural Residential (RR10)	10
Tumalo Residential (TUR/TUR5)	7
<i>Total Residential Zoned Properties: 100</i>	
Total Single Zoned Properties in CHC Zone: 460	

Multiple Base (Split) Zoned Properties

Zones	Number of properties
EFU and F1/F2	1
EFU and MUA 10	3
EFU and RR10	1
EFU and FP	13
EFU, FP, and MUA10	2
EFU, FP, and TUR/TUR5	1
MUA10 and Flood Plain (FP)	16
Surface Mine (SM) and FP	3
TUR/TUR5 and FP	4
MUA10, TUR5, and FP	1
Total Split Zoned Properties in CHC Zone: 45	

The purpose of these amendments is twofold: to implement the recommendation of the 2020 housing profile to allow for an affordable housing option where stick-built residential structures are otherwise allowed and also to bring the Deschutes County Code into compliance with HB 4064 by specifically removing this combining zone from residentially zoned properties.

III. REVIEW CRITERIA

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative text amendment. Nonetheless, since Deschutes County is initiating the amendment, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and its existing Comprehensive Plan.

IV. FINDINGS

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010

Hearing Required

FINDING: This criterion will be met because a public hearing was held before the Deschutes County Planning Commission on June 22, 2023 and Board of County Commissioners on August 23, 2023.

Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice was published in the Bend Bulletin newspaper for the Planning Commission public hearing on June 22, 2023, and the Board of County Commissioners' public hearing on August 23, 2023.

- B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.***

FINDING: Posted notice was determined by the Planning Director not to be necessary.

- C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.***

FINDING: In accordance with the above criterion, individual notice was sent to all property owners within the Conventional Housing Combining Zone, as well as those property owners within 250 of the Zone's boundaries in order to comply with DCC 22.24.030(A)(2).

- D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.**

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion is met.

Section 22.12.030, Initiation of Legislative Changes

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board of County Commissioners, and has received a fee waiver. This criterion is met.

Section 22.12.040, Hearings Body

- A. The following shall serve as hearings or review body for legislative changes in this order:**
- 1. The Planning Commission.**
 - 2. The Board of County Commissioners.**
- B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.**

FINDING: The Deschutes County Planning Commission held the initial public hearing on June 22, 2023. The Board then held a public hearing on August 23, 2023. These criteria are met.

Section 22.12.050, Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes will be implemented by **Ordinance No. 2023-XXX** upon approval and adoption by the Board of County Commissioners. This criterion will be met.

A. Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement: The amendments do not propose any changes to the County's citizen involvement program. Notice of the proposed amendments were provided to the *Bulletin* for each public hearing as well as in accordance with DCC 22.12.020 (C).

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on May 18, 2023 The Planning Commission held a public

hearing on June 22, 2023 and the Board of County Commissioners held a public hearing on August 23, 2023. Staff finds compliance with Goal 2 is met.

Goal 3: Agricultural Lands: The proposed amendments are to repeal the Conventional Housing Combining Zone which restricts manufactured and pre-fabricated homes. This repeal would remove this restriction, without changing any other requirements for establishing a dwelling within the Exclusive Farm Use Zone. Adverse impacts to farming practices are not anticipated under these amendments as the change only pertains to the style of the residential dwelling to be placed onto the property. Oregon Revised Statute and Rule do not contain specific requirements for restrictions on manufactured or pre-fabricated dwellings in the Exclusive Farm Use Zones, and this text amendment will not alter other existing requirements for dwellings in the Exclusive Farm Use Zone. Staff finds compliance with Goal 3 is met.

Goal 4: Forest Lands: The proposed amendments are to repeal the Conventional House Combining Zone which restricts manufactured and pre-fabricated homes. This repeal would remove this restriction, without changing any other requirements for establishing a dwelling within the Forest Use Zone. Adverse impacts to forest practices are not anticipated under these amendments and no such impacts have been identified in the record. Oregon Revised Statute and Rule do not contain specific requirements for restrictions on manufactured or pre-fabricated dwellings in the Forest Use Zones, and this text amendment will not alter other existing requirements for dwellings in the Forest Use Zone. Staff finds compliance with Goal 4 is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: Goal 5 is to protect natural resources and conserve scenic and historical areas and open spaces. OAR 660-023-0250(3) states that local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. The proposed amendment is not seeking to change any requirements in a Goal 5 resource. Staff finds compliance with Goal 5 is met.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose to change the County's Plan policies or implementing regulations for compliance with Goal 6. Staff finds compliance with Goal 6 is met.

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding natural disasters and hazards; therefore, they comply. Staff finds compliance with Goal 7 is met.

Goal 8: Recreational Needs: The text amendments do not propose to change the County's Plan or implementing regulations regarding recreational needs. Staff finds compliance with Goal 8 is met.

Goal 9: Economic Development: Goal 9 and its implementing regulations focus on economic analysis and economic development planning required in urban Comprehensive Plans to ensure there is adequate land available to realize economic growth and development opportunities. Although not directly tied to the requirements of Goal 9, staff finds that the proposed amendments comply with the intent of this goal by providing affordable housing options for community members. Staff finds compliance with Goal 9 is met.

Goal 10: Housing: The proposed text amendment relates to Goal 10 as it is removing restrictions on the types of housing that can be placed in residential zones. As stated above, the proposed amendment is in response to the adoption of House Bill 4604 which prohibits County's from placing restrictions on manufactured and pre-fabricated housing. The text amendment is also partly in response to the 2020 Housing Profile as a method to remove barriers to housing production within the County. Staff finds compliance with Goal 10 is met.

Goal 11: Public Facilities and Services: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding public facilities and services. Staff finds compliance with Goal 11 is met.

Goal 12: Transportation: Goal 12 is to provide and encourage a safe, convenient and economic transportation system. The proposed text amendments will not change the functional classification of any existing or planned transportation facility or standards implementing a functional classification system. Staff finds compliance with Goal 12 is met.

Goal 13: Energy Conservation: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding energy conservation. Staff finds compliance with Goal 13 is met.

Goal 14: Urbanization: The proposed text amendments do not propose to change the County's Plan or implementing regulations regarding urbanization. Staff finds compliance with Goal 14 is met.

Goals 15 through 19 are not applicable to the proposed text amendments because the County does not contain these types of lands.

D. Deschutes County Comprehensive Plan

Chapter 1, Comprehensive Planning:

This chapter sets the Goals and Policies of how the County will involve the community and conduct land use planning. As described above, the proposed regulations will be discussed at work sessions with the Board of County Commissioners, as well as to the Planning Commission, which is the County's official committee for public involvement. Both will conduct separate public hearings.

These actions also satisfy the Goals and relevant Policies of Section 1.3, Land Use Planning Policies. Goal 1 of this section is to "maintain an open and public land use process in which decisions are based on the objective evaluation of facts." Staff, the Planning Commission, and the Board reviewed the text amendments. Staff finds that compliance with Chapter 1 of the Comprehensive Plan is met.

Chapter 2, Resource Management:

This chapter sets the Goals and Policies of how the County will protect resource lands, including but not limited to, Agriculture and Forest as well as Water Resources and Environmental Quality.

Section 2.3, Forest Land Policies

Goal 1 Protect and maintain forest lands for multiple uses, including forest products, watershed protection, conservation, recreation and wildlife habitat protection.

Policy 2.3.3, To conserve and maintain impacted forest lands, retain Forest 2 zoning for those lands with the following characteristics:

- a. Consist predominantly of ownerships developed for residential or non-forest uses;
- b. Consist predominantly of ownerships less than 160 acres;
- c. Consist of ownerships generally contiguous to tracts containing less than 160 acres and residences, or adjacent to acknowledged exception areas; and
- d. Provide a level of public facilities and services, including roads, intended primarily for direct services to rural residences.

Forest Lands, states that the goal is to protect forests and their economic benefits. Within this section, the future of residential development is discussed and the challenge of allowing residential fragmentation within the forest zones. Staff notes that the proposed text amendments, which would remove restrictions on placing manufactured homes in an area where residences are approved, will have no effect on this Chapter of the Comprehensive Plan and the current requirements for developing a residence on Forest Zoned lands. Staff finds compliance with this policy is met.

Chapter 3, Rural Growth Management:

Section 3.3, Rural Housing

Goal 1 Maintain the rural character and safety of housing in unincorporated Deschutes County

Policy 3.3.5, Maintain the rural character of the County while ensuring a diversity of housing opportunities, including initiating discussions to amend State Statute and/or Oregon Administrative Rules to permit accessory dwelling units in Exclusive Farm Use, Forest and Rural Residential zones

The CHC Zone places a restriction on manufactured and pre-fabricated dwellings. The repeal of this Combining Zone will align with the section of the Comprehensive Plan as it will allow housing diversity in all areas of the County where residences are permitted. Staff finds compliance with this policy is met.

Chapter 4, Urban Growth Management:

Section 4.7 Tumalo Community Plan

Residential Area Policies

11. Plan and zone for a diversity of housing types and densities suited to the capacity of the land to accommodate water and sewage requirements.

The CHC Zone covers several properties located in the unincorporated community boundary of Tumalo, as such this policy applies. The CHC Zone is proposing to remove a restriction on the type of housing placed in residential zones and will promote greater diversity in housing type. The

density, water, and sewage requirements are not proposed to change with this proposal. Staff finds compliance with this policy is met.