

CHAPTER 18.12 ESTABLISHMENT OF ZONES

18.12.010 Establishment Of Zones

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For the purpose of DCC Title 18, the following primary zones, combining zones, subzones and unincorporated community zone districts are hereby established:

A. Primary Zones.

Primary Zones	Abbreviations
Airport Development	AD
Exclusive Farm Use Zones	EFU
Flood Plain	FP
Forest Use	F1
Forest Use	F2
Multiple Use Agriculture	MUA10
Open Space and Conservation	OS&C
Rural Commercial	RC
Rural Industrial	RI
Rural Residential	RR10
Surface Mining	SM

B. Combining Zones.

Combining Zones	Abbreviations
Airport Safety	AH
Conventional Housing	CH
Destination Resort	DR
Landscape Management	LM
Limited Use	LU
Sensitive Bird & Mammal Habitat	SBMH
Surface Mining Impact Area	SMIA
Wildlife Area	WA
<u>2023 Mule Deer Winter Range</u>	<u>WA-MD</u>

HISTORY

Amended by Ord. [92-025](#) §5 on 4/15/1991

Amended by Ord. [96-003](#) §4 on 3/27/1996

Amended by Ord. [98-063](#) §2 on 9/30/1998

Amended by Ord. [2001-044](#) §2 on 10/10/2001

Amended by Ord. [2001-048](#) §4 on 12/10/2001

Amended by Ord. [2002-001](#) §1 on 6/5/2002

Amended by Ord. [2002-019](#) §1 on 8/7/2002

Amended by Ord. [2005-016](#) §1 on 4/27/2005

Amended by Ord. [2006-008](#) §2 on 8/29/2006
Amended by Ord. [2008-017](#) §1 on 8/18/2008
Repealed by Ord. [2018-005](#) §9 on 10/10/2018
Amended by Ord. [2019-010](#) §1 on 5/8/2019
Amended by Ord. [2023-xxx](#) §x on x/x/2023

CHAPTER 18.91 2023 MULE DEER WINTER RANGE COMBINING ZONE; WA-MD

18.91.010 Purpose

18.91.020 Application Of Provisions

18.91.030 Uses Permitted Outright

18.91.040 Uses Permitted Conditionally

18.91.050 Dimensional Standards

18.91.060 Siting Standards

18.91.070 Fence Standards

18.91.010 Purpose

The purpose of the 2023 Mule Deer Winter Range Combining Zone is to conserve important mule deer winter range habitat in Deschutes County; to protect an important environmental, social and economic element of the area; and to permit development compatible with the protection of the mule deer resource.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.020 Application Of Provisions

The provisions of DCC 18.91 shall apply to all areas identified in the Comprehensive Plan as 2023 Mule Deer Winter Range Combining Zone. Unincorporated Communities are exempt from the provisions of DCC 18.91.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.030 Uses Permitted Outright

In a zone with which the WA-MD Zone is combined, the uses permitted outright shall be those permitted outright by the underlying zone.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.040 Uses Permitted Conditionally

A. Except as provided in DCC 18.91.040(B), (C), and (D), in a zone with which the WA-MD Zone is combined, the conditional uses permitted shall be those permitted conditionally by the underlying zone subject to the provisions of the Comprehensive Plan, DCC 18.128 and other applicable sections of this title. To minimize impacts to mule deer winter range habitat, the County may include conditions of approval limiting the duration, frequency, seasonality, and total number of all outdoor assemblies occurring in the WA-MD Zone, whether or not such outdoor assemblies are public or private, secular or religious.

B. The following uses are subject to additional limitations identified in DCC 18.91.040(E):

1. Golf course, not included in a destination resort;
2. Kennel;
3. Public or private school;
4. Bed and breakfast inn, room and board arrangement, or guest lodge;
5. Dude ranch;
6. Playground, recreation facility, or community center owned and operated by a government agency or a nonprofit community organization;
7. Timeshare unit, as defined in ORS 94.803;

8. Veterinary clinic;
9. Fishing lodge;
10. Guest ranch;
11. Outdoor sporting and recreation uses, including but not limited to paintball park, shooting range, off-highway motor vehicle course, model airplane park, or bicycle courses. This use category excludes equestrian uses, pedestrian trail uses, and uses subject to DCC 18.16.042.

C. The following uses are subject to additional limitations identified in DCC 18.91.040(F)

1. Campgrounds;
2. Recreational Vehicle Parks.

D. The following uses are subject to additional limitations identified in DCC 18.91.040(G)

1. Photovoltaic solar power generation facility, as defined in OAR 660-033-0130;
2. Wind power generation facility, as defined in OAR 660-033-0130.

E. Use limitations. The uses listed in DCC 18.91.040(B) are subject to the applicable sections of this title and the following criteria:

1. Outdoor events or activities associated with the use shall be prohibited from December through March. This limitation does not apply to parking or the loading or unloading for indoor events or activities associated with the use.
2. All buildings associated with the use shall be located in accordance with DCC 18.91.060.
3. The use, all structures, and use areas, including but not limited to parking, drive aisles, outdoor activity areas shall be:
 - a. Located entirely within 1,320 feet of a County road designated as an arterial on the TSP.
 - b. Shall occur on a lot or parcel that is at least 5 acres in lot area.
 - c. Shall be limited to a two-acre envelope. This restriction shall not apply to golf courses.
4. Fences developed as part of the use shall be constructed in accordance with DCC 18.91.070.

F. Use limitations. The uses listed in DCC 18.91.040(C) are subject to the applicable sections of this title and the following criteria:

1. Fences developed as part of the use shall be constructed in accordance with DCC 18.91.070.

G. Use limitations. The uses listed in DCC 18.91.040(D) are subject to the applicable sections of this title and the following criteria:

1. All buildings associated with the use shall be located entirely within 1,320 feet of a County road designated as an arterial on the TSP.
2. The use limitations of DCC 18.91.040(G)(1) do not apply to Government Entities, including but not limited to quasi-municipal corporations.
3. The fence standards of 18.91.070 do not apply to the uses listed in DCC 18.91.040(D).

H. Alteration, maintenance, restoration, or replacement of any use listed in DCC 18.91.040(B), (C), or (D) that was lawfully established, prior to [date of adoption] may be allowed, subject to DCC 18.120.010.

- I. Use limitations identified in DCC 18.91.040 (E), (F), or (G) may be waived by the County upon a determination that habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern, after consultation with the Oregon Department of Fish and Wildlife.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.050 Dimensional Standards

In a WA-MD Zone, the following dimensional standards shall apply:

- A. In the 2023 mule deer winter range, there is no minimum lot size for new parcels except as provided in the underlying zone and DCC 18.91.050(B).
- B. Land divisions, including partitions, where the underlying zone is RR-10 or MUA-10, shall not be permitted except when conforming to the following standards:
 1. The number of new residential dwelling lots or parcels may not exceed 10.
 2. The total number of residences in the development may not exceed the equivalent density of one dwelling unit per 10 acres, despite any provision to the contrary.
 3. The development shall retain a minimum of 65 percent open space on a single lot or parcel identified as open space on the plat. The open space lot or parcel shall be subject to the following conditions:
 1. Uses permitted in the open space lot or parcel shall be limited to:
 1. Agricultural use,
 2. Equestrian or pedestrian trail systems, and
 3. Reclamation and enhancement that creates or improves wetlands, creates or improves wildlife habitat, restores native vegetation, or provides for agricultural use of the property after reclamation.
 4. Residential dwelling lots or parcels shall be platted with a minimum acreage of two acres and maximum acreage of three acres.
 5. All residential lots or parcels shall be adjoining.
 6. All buildings associated with the use shall be located in accordance with DCC 18.91.060.
- C. Standards identified in DCC 18.91.050(B)(3-6) may be waived by the County upon a determination that habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern, after consultation with the Oregon Department of Fish and Wildlife.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.060 Siting Standards

- A. Setbacks shall be those described in the underlying zone with which the WA-MD Zone is combined.
- B. The footprint, including decks and porches, for new buildings, not including replacement buildings in the same footprint, shall be located either:
 1. Entirely within 300 feet of public roads, private roads or recorded easements for vehicular access existing as of [date of adoption], or
 2. Where no such location exists on the property compliant with DCC 18.88.060(B)(1), the footprint, including decks and porches, for new buildings, not including replacement buildings in the same footprint, shall be located within 300 feet of a point on the

property closest to a public road, private road or recorded easement for vehicular access existing as of [date of adoption].

- C. The siting standards of DCC 18.91.060(B) may be waived where the County determines that:
1. Habitat values (i.e., browse, forage, cover, access to water) and migration corridors are afforded equal or greater protection through a different development pattern, after consultation with the Oregon Department of Fish and Wildlife; or,
 2. The siting within 300 feet of such roads or easements for vehicular access would force the building to be located on irrigated land, in which case, the building shall be located to provide the least possible impact on wildlife habitat considering browse, forage, cover, access to water and migration corridors, and minimizing length of new access roads and driveways; or,
 3. The building is set back no more than 50 feet from the edge of a driveway that existed as of [date of adoption].
 4. Buildings accessory to the Farm use or Agricultural Use of a property.
- D. For purposes of DCC 18.88.060(B):
1. A private road, easement for vehicular access or driveway will conclusively be regarded as having existed prior to [date of adoption] if the applicant submits any of the following:
 - a. A copy of an easement recorded with the County Clerk prior to [date of adoption] establishing a right of ingress and egress for vehicular use;
 - b. An aerial photograph with proof that it was taken prior to [date of adoption] on which the road, easement or driveway allowing vehicular access is visible;
 - c. A map published prior to [date of adoption] or assessor's map from prior to [date of adoption] showing the road (but not showing a mere trail or footpath).
 2. An applicant may submit any other evidence thought to establish the existence of a private road, easement for vehicular access or driveway as of [date of adoption] which evidence need not be regarded as conclusive.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

18.91.070 Fence Standards

The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.

- A. New fences in the WA-MD Zone shall be designed to permit wildlife passage.
1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.
 2. The height of the fence shall not exceed 48 inches above ground level.
 3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.
- B. Exemptions:
1. Fences of less than 400 feet in total length per lot or parcel; or
 2. Fences used for accepted farming practices; or
 3. An alternative fence design which provides equivalent wildlife passage may be approved by the County after consultation with the Oregon Department of Fish and Wildlife.

HISTORY

Adopted by Ord. 2023-xxx §x on x/x/xxxx

CHAPTER 23.01 COMPREHENSIVE PLAN

* * *

AZ. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2022-006, are incorporated by reference herein.

[BA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2023-xxx, are incorporated by reference herein.](#)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/complan>)

HISTORY

Amended by Ord. [2011-027](#) §10 on 11/9/2011

Adopted by Ord. [2011-003](#) §2 on 11/9/2011

Amended by Ord. [2011-017](#) §5 on 11/30/2011

Amended by Ord. [2012-012](#) §1, 2, 3, 4 on 8/20/2012

Amended by Ord. [2012-005](#) §1 on 11/19/2012

Amended by Ord. [2013-002](#) §1 on 1/7/2013

Repealed by Ord. [2013-001](#) §1 on 1/7/2013

Amended by Ord. [2013-005](#) §1 on 1/23/2013

Amended by Ord. [2012-016](#) §1 on 3/4/2013

Amended by Ord. [2013-009](#) §1 on 5/8/2013

Amended by Ord. [2013-012](#) §1 on 8/8/2013

Amended by Ord. [2013-007](#) §1 on 8/28/2013

Amended by Ord. [2014-005](#) §2 on 2/26/2014

Amended by Ord. [2014-006](#) §2 on 3/15/2014

Amended by Ord. [2014-012](#) §1 on 8/6/2014

Amended by Ord. [2014-021](#) §1 on 11/26/2014

Amended by Ord. [2015-029](#) §1 on 11/30/2015

Amended by Ord. [2015-010](#) §1 on 12/21/2015

Amended by Ord. [2015-021](#) §1 on 2/22/2016

Amended by Ord. [2015-018](#) §1 on 3/28/2016

Amended by Ord. [2016-001](#) §1 on 4/5/2016

Amended by Ord. [2016-022](#) §1 on 9/28/2016

Repealed & Reenacted by Ord. [2016-027](#) §1, 2 on 12/28/2016

Amended by Ord. [2016-005](#) §1 on 2/27/2017

Amended by Ord. [2016-029](#) §1 on 3/28/2017

Amended by Ord. [2017-007](#) §1 on 11/1/2017

Amended by Ord. [2018-002](#) §1 on 1/25/2018

Amended by Ord. [2018-005](#) §2 on 10/10/2018

Amended by Ord. [2018-008](#) §1 on 10/26/2018

Amended by Ord. [2018-006](#) §1 on 11/20/2018

Amended by Ord. [2018-011](#) §1 on 12/11/2018

Amended by Ord. [2019-004](#) §1 on 3/14/2019

Amended by Ord. [2019-003](#) §1 on 3/14/2019
Amended by Ord. [2019-002](#) §1 on 4/2/2019
Amended by Ord. [2019-001](#) §1 on 4/16/2019
Amended by Ord. [2019-010](#) §1 on 5/8/2019
Amended by Ord. [2019-011](#) §1 on 5/17/2019
Amended by Ord. [2019-006](#) §1 on 6/11/2019
Amended by Ord. [2019-019](#) §2 on 12/11/2019
Amended by Ord. [2020-001](#) §26 on 4/21/2020
Amended by Ord. [2020-003](#) §1 on 5/26/2020
Amended by Ord. [2020-002](#) §1 on 5/26/2020
Amended by Ord. [2020-008](#) §5 on 9/22/2020
Amended by Ord. [2020-007](#) §1 on 10/27/2020
Amended by Ord. [2020-006](#) §1 on 11/10/2020
Amended by Ord. [2020-009](#) §4 on 11/17/2020
Amended by Ord. [2020-013](#) §1 on 11/24/2020
Amended by Ord. [2021-002](#) §3 on 4/27/2021
Amended by Ord. [2021-005](#) §1 on 6/16/2021
Amended by Ord. [2021-008](#) §1 on 6/30/2021
Amended by Ord. [2022-001](#) §2 on 7/12/2022
Amended by Ord. [2022-003](#) §2 on 7/19/2022
Amended by Ord. [2022-006](#) §2 on 7/22/2022
[Amended by Ord. 2023-xxx §x on x/x/2023](#)

Section 2.6 Wildlife

Background

Wildlife diversity is a major attraction of Deschutes County. It was mentioned in many Comprehensive Plan meetings in 2008 and 2009 as important to the community. Healthy wildlife populations are often a sign of a healthy environment for humans as well as other species. The key to protecting wildlife is protecting the habitats each species needs for food, water, shelter and reproduction. Also important is retaining or enhancing connectivity between habitats, in order to protect migration routes and avoid isolated populations.

Wildlife is tied to land use planning because human development impacts habitats in complex ways. Wildlife protections are provided by federal, state and local governments. Oregon land use planning protects wildlife with Statewide Planning Goal 5, Open Spaces, Scenic and Historical Areas and Natural Resources and the associated Oregon Administrative Rule (OAR) 660-023 (this Rule replaced 660-016 in 1996). Statewide Goal 5 includes a list of resources which each local government must inventory, including wildlife habitat.

The process requires local governments to inventory wildlife habitat and determine which items on the inventory are significant. For sites identified as significant, an Economic, Social, Environmental and Energy (ESEE) analysis is required. The analysis leads to one of three choices: preserve the resource, allow proposed uses that conflict with the resource or strike a balance between the resource and the conflicting uses. A program must be provided to protect the resources as determined by the ESEE analysis.

In considering wildlife habitat, counties rely on the expertise of the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS). Those agencies provide information for the required wildlife inventory and recommendations on how to protect wildlife habitat on private lands. Note that this section focuses on wildlife, while fish are covered in the Water Resources section of this Plan.

Wildlife Designations

Comprehensive Planning for Wildlife

Plan 2000, the Comprehensive Plan adopted in 1979, included a Fish and Wildlife Chapter with policies aimed at protecting wildlife. That Plan also noted the controversial nature of wildlife protections. To implement the Plan policies, the Wildlife Area Combining Zone was adopted. This overlay zone was intended to protect identified big game habitat through zoning tools such as appropriate lot sizes and setbacks. In 1986 a River Study was completed and adopted into the Resource Element. Goals and policies from that study, including wildlife goals, were added to Plan 2000.

As part of State mandated Periodic Review, the County took another look at wildlife protections to further comply with the requirements of Goal 5 and the then prevailing OAR 660-16. The County worked with the ODFW to obtain the most recent inventory information on fish and wildlife resources in the county and to identify uses conflicting with those resources. This information was used to update the inventories and amend the ESEE analyses.

In addition, ODFW provided information to support zoning ordinance provisions to resolve conflicts between fish and wildlife resource protection and development. The County adopted a Sensitive Bird and Mammal Combining Zone which identified and protected specific bird nests or leks and bat hibernating or nursery sites.

Ordinances for Compliance with Goal 5

During periodic review in 1992, Deschutes County met the requirements of Goal 5 by:

- The adoption of Goals and Policies in Ordinance 92-040 reflecting Goal 5 requirements, including a Sensitive Bird and Mammal Combining Zone to identify and protect specific bird nests or leks and bat hibernating or nursery sites;
- The adoption of Ordinance 92-041 amended the comprehensive plan to inventory each Goal 5 resource, analyze conflicting uses, and analyze the ESEE consequences of protecting or not protecting inventoried fish and wildlife resources;
- The adoption of zoning ordinance provisions in Ordinance 92-042, as applied to inventoried sites by the map adopted by Ordinance 92-046.

In 2015, the Land Conservation and Development Commission (LCDC) adopted rules to Oregon Administrative Rule (OAR) chapter 660, division 23, to establish procedures for considering development proposals on lands identified as Greater Sage-Grouse Area Habitat. Deschutes County met the requirements by:

- Adopting the 2015 Goal 5 Greater Sage Grouse habitat Area Inventory Map into its Comprehensive Plan and amending the Sensitive Bird and Mammal Habitat Inventory to remove 1990 sage grouse lek and range data by Ordinance 2015-010 (Those maps are incorporated by reference herein); and,
- Adopting sage grouse regulations as a Greater Sage Grouse Area Combining Zone by Ordinance 2015-011.

Wildlife Snapshot 2008-2009

Source: County GIS data

- There are 816,649 acres in Deschutes County's Wildlife Area Combining Zone.
- There are 40 sites protected by the Sensitive Bird and Mammal Habitat Combining Zone.
- 76% of County land is owned and managed by the Federal government through the U.S. Forest Service and Bureau of Land Management.

Source: Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008 May 2009 Prepared for Oregon Department of Fish and Wildlife by Dean Runyan Associates

- Nearly \$70 million was spent in Deschutes County on travel generated expenditures on wildlife viewing, fishing and hunting by people from over 50 miles away.
- Over 60% of the \$70 million noted above was spent for wildlife viewing, with fishing second with nearly 30% and nearly 10% on hunting.
- Over \$8 million in revenue from fishing, hunting and wildlife viewing came from people who live in the County or within 50 miles of the County.
- Over 60% of the \$8 million noted above was spent on fishing, over 20% was spent on hunting and under 20% was spent on wildlife viewing.
- All total, over \$78 million was spent in Deschutes County on fishing, hunting and wildlife viewing.

Deer Migration Corridor

The Bend/La Pine migration corridor is approximately 56 miles long and 3 to 4 miles wide and parallels the Deschutes and Little Deschutes Rivers. The corridor is used by deer migrating from summer range in the forest along the east slope of the Cascades to the North Paulina deer winter range. Deschutes County adopted a “Deer Migration Priority Area” based on a 1999 ODFW map submitted to the South County Regional Problem Solving Group. This specific sub-area is precluded from destination resorts.

Deer Winter Range

The ODFW identified the Metolius, Tumalo and North Paulina deer winter ranges during Deschutes County’s initial comprehensive plan. The boundaries of these winter ranges are shown on the Big Game Sensitive Area map in the 1978 Comprehensive Plan and have been zoned with the Wildlife Combining Zone since 1979. The winter ranges support a population of approximately 15,000 deer.

In 1992, ODFW recommended deer winter range in the northeast corner of the county, in the Smith Rock State Park area, be included in the Deschutes County inventory and protected with the same measures applied to other deer winter range. This area was officially included and mapped on the Wildlife Combining Map when Ordinance 92-040 was adopted by the Board of County Commissioners.

In 2023, a new Mule Deer Winter Range Combining Zone was developed and codified by Ordinance No. 2023-xxx. This new inventory area was initially identified by ODFW with the assistance of a consulting biologist as part of a Department of Land Conservation and Development Technical Assistance Grant in recognition that the existing data was over thirty years old. The 2023 combining zone is a separate area from the existing Wildlife Area Combining Zone and contains protection measures that consider elements from the 2009 Interagency Report (see below) as well as subsequent recommendations from ODFW.

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
* * *			
2022-010	07-27-22/10-25-22	23.01.010	Comprehensive Plan Map Designation for Certain Property from Agriculture (AG) To Rural Industrial (RI)
<u>2023-xxx</u>	<u>xx-xx-23/xx-xx-23</u>	<u>2.6, 23.01.010</u>	<u>Comprehensive Plan Text Amendment to add the 2023 Mule Deer Winter Range Combining Zone</u>