

## CHAPTER 18.120 EXCEPTIONS

### 18.120.030 Exceptions To Setback Requirements

The following exceptions to setback requirements may be authorized for a lot or parcel in any zone:

- A. If there are buildings on both lots or parcels abutting an intervening lot or parcel that are within 100 feet of the intervening lot or parcel, and the buildings have front setbacks of less than the minimum required for the zone, the front setback for the intervening lot or parcel need not exceed the average measurement of the front setbacks of the abutting lots or parcels.
- B. Cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than three feet into a required front, rear, or side setback area, provided that the projection is not closer than three feet to a lot line.
- C. The following features are not subject to front, rear, or side setbacks:
  - 1. Steps, terraces, platforms, and porches having no roof covering;
  - 2. Utility infrastructure, at or below finished grade;
  - 3. Utility poles and transmission lines;
  - 4. Utility boxes not interfering with the vision clearance requirements;
  - 5. Outdoor improvements at finished grade, including, but not limited to, paved areas, driveways, or walkways;
  - 6. Signs conforming to the requirements of DCC Title 15 and Title 18.
  - 7. Fences conforming to the requirements of DCC 18.116.120.
- D. An addition to an existing lawfully established dwelling unit which is within 100 feet of the ordinary high water ~~mark line~~ along a stream, river, or lake may be constructed provided the following are met:
  - 1. The addition is for ~~an expansion of the dwelling unit;~~residential dwelling purposes,
  - 2. ~~No~~ No part of the addition is closer to the stream, river, or lake than the existing ~~residential structuredwelling unit's structural footprint;~~
  - 3. ~~The~~ The floor area ~~of for~~ the addition is 900 square feet or less and does not exceed the floor area of the existing ~~structure-dwelling unit;~~ and
  - 8.4. ~~The~~ The addition conforms with all other applicable setbacks, zoning standards, and building limitations.
- ~~D.E.~~For applications reviewed under General/Discretionary Standards pursuant to DCC 22.08.040, ~~Dd~~dwelling units on lots or parcels created prior to November 1, 1979, may be granted an exception to the 100-foot setback from the ordinary high water ~~mark line~~ along a stream, river, or lake, pursuant to DCC 18.84.090, subject to DCC Title 22, ~~the Uniform Development Procedures Ordinance~~, and the following conditions in subsections (1) – (4). Applications

reviewed under Clear and Objective Standards pursuant to DCC 22.08.040 are not eligible for this setback exception.:

1. An application shall be filed which includes:
  - a. A detailed explanation of the planned development.
  - b. An explanation of why an exception is necessary.
  - c. A site plan, drawn to scale, and accompanied by such drawings, sketches, and descriptions necessary to describe and illustrate the proposed development. The site plan shall, at a minimum, include:
    1. An inventory of existing vegetation, including trees on the lot or parcel located within 200 feet of the ordinary high water mark-line along the stream, river, or lake. The inventory shall be in sufficient detail to allow the review and evaluation of the impacts of the proposed development.
    2. Proposed modifications of the vegetation on the lot or parcel within 200 feet of the ordinary high water mark-line along the stream, river, or lake, including the size, species, and approximate locations of existing vegetation to be retained and new vegetation proposed to be placed upon the site.
    3. Existing and proposed site contours.
    4. The locations and dimensions of all structures, property-lot lines, easements, ordinary high water mark-lines or marks, utilities, and uses.
    5. Other site elements and information that will assist in the evaluation of the proposed development.
  - d. An explanation of how the proposed development will satisfy each of the exception criteria set forth in DCC 18.120.030(E)(4)(b).
2. An exception may be granted only upon findings that:
  - a. The structure to be sited is a dwelling unit with a structural footprint that is no greater than 40 feet in depth (including garages, carports, and decks);
  - b. Adherence to the 100-foot setback would create a hardship, as defined in DCC 18.120.030(E)(3), preventing such a dwelling unit from being sited on the lot or parcel;
  - c. The site plan protects and enhances the vegetative fringe between the dwelling unit and the stream, river, or lake to the degree necessary to meet the requirements set forth in the applicable goals and policies of the Comprehensive Plan; and
  - d. A conservation easement providing that the elements of the site plan will be carried out and maintained as approved, in perpetuity, for the area between the

ordinary high water ~~mark~~-line and the dwelling unit has been conveyed to the County.

3. For the purposes of DCC 18.120.030, a hardship exists in one or more of the following situations:
  - a. Adherence to setbacks required by the zoning ordinance in effect at the time of the application made under DCC 18.120.030 would prevent the dwelling unit from being sited on the lot or parcel, if the 100-foot setback were observed;
  - b. The siting of a legal on-site ~~wastewater septic disposal~~-system, placed on the lot or parcel prior to November 1, 1979, makes it impossible for the dwelling unit to meet the 100-foot setback;
  - c. Any approved initial on-site ~~wastewater septic sewage disposal~~-system and replacement system other than a sand filter ~~A or an alternative treatment technology~~ system cannot be sited on the lot or parcel in a manner that will allow the dwelling unit to meet the 100-foot setback requirement;
  - d. If the only initial on-site ~~wastewater septic~~ sewage ~~disposal~~-system for which approval can be obtained is a sand filter system ~~or an alternative treatment technology system~~ and such a system and its replacement system cannot be sited on the lot or parcel in a manner that will allow the dwelling unit to meet the 100-foot setback requirement; or
  - e. Dwelling units exist on both abutting lots or parcels that are closer to the stream, river, or lake than the proposed dwelling unit and such existing dwelling units are located within 40 feet of the proposed dwelling unit. If utilization of a sand filter system ~~or alternative treatment system~~ as a replacement system will allow such a dwelling unit to meet the 100-foot setback, no exception shall be granted for reasons of on-site sewage disposal constraints.
4. Dwelling units qualifying for a setback exception under the criteria set forth above shall be located as follows:
  - a. Except as set forth in DCC 18.120.030(E)(4)(b), the dwelling unit must be located as far as possible from the ordinary high water ~~mark~~-line of the stream, river, or lake, allowing for the hardship constraints identified for the property.
    1. In instances where use of a sand filter system ~~or alternative treatment system~~ for a replacement system would allow the dwelling unit to be located further from the stream, river, or lake than if another type of replacement system were utilized, the dwelling unit shall be sited in a manner to allow only enough room for the approved initial on-site ~~wastewater septic sewage disposal~~-system and a sand filter system ~~or alternative treatment technology system~~ as a replacement system.
  - b. Where a dwelling unit qualifies for a setback by virtue of DCC 18.120.030(E)(3)(e), the dwelling unit may be set back at a distance from the

ordinary high water ~~mark~~line consistent with the dwelling units on the abutting lots or parcels, but in no case shall any part of such dwelling unit be located closer to the ordinary high water line ~~mark~~ than a line extending between the points of the dwelling units on the abutting lots or parcels that are closest to the stream, river, or lake.

#### HISTORY

*Adopted by Ord. [PL-15](#) on 11/1/1979*

*Amended by Ord. [81-003](#) §1 on 1/21/1981*

*Amended by Ord. [81-005](#) §1 on 1/27/1981*

*Amended by Ord. [84-002](#) §1 on 3/21/1984*

*Amended by Ord. [86-032](#) §1 on 4/2/1986*

*Amended by Ord. [90-020](#) §2 on 6/6/1990*

*Amended by Ord. [91-020](#) §1 on 5/29/1991*

*Amended by Ord. [93-043](#) §§20A and B on 8/25/1993*

*Amended by Ord. [95-075](#) §1 on 11/29/1995*

*Amended by Ord. [2004-013](#) §13 on 9/21/2004*

*Amended by Ord. [2025-002](#) §30 on 2/26/2025*

*[Amended by Ord. 2025-009 §11 on 6/18/2025](#)*

#### **18.120.040 Structure Height Exceptions**

- A. The following structures or structural parts are not subject to the building height limitations of DCC Title 18, except in the Airport Development Zone, Airport Safety Combining Zone, or Landscape Management Combining Zone:
  1. Chimneys and vents, not more than three feet six inches above the highest point of the roof;
  2. 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;
  3. Flagpoles not exceeding 40 feet;
  4. Agricultural buildings or equine facilities as defined in DCC 18.04.030 not exceeding 36 feet; and
  5. Amateur radio facilities as outlined in DCC Title 18.116.290.
- B. For the purposes of calculating structural height, the following method may be used as a discretionary alternative when determining average grade:
  1. Perimeter Sampling Method: The average of eight measurements around the entire structural footprint perimeter, with the first measurement point starting at the lowest

finished grade abutting the structure, and subsequent measurement points spaced equidistantly along the finished grade abutting the structure.

- C. 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. However, this exception does not supersede the more restrictive requirements that are found in the Airport Safety Combining Zone or Landscape Management Combining Zone:
1. Non-commercial wind energy systems generating less than 100 kW of electricity;
  2. Public schools;
  3. Vertical support structures for telephone and power transmission lines requiring a site plan;
  4. Structures that are necessary for public safety; and
  5. Flagpoles.
- D. For applications reviewed under General/Discretionary Standards pursuant to DCC 22.08.040, aAn 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~~consistent with subsections (1) through (5). Applications reviewed under Clear and Objective Standards pursuant to DCC 22.08.040 are not eligible for this building height exception.
1. The structure is not located in a Landscape Management Zone, except when the structure is a single-unit 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;
  4. The proposed additional height will not adversely impact scenic views from existing nearby dwelling units; and-
  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.
- E. An exception to building height limitations for agricultural buildings or equine facilities 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 building or equine facility 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~~ as defined in ORS 215.203(2)(c). The applicant shall document satisfaction of this criterion by submitting evidence or testimony from an authorized representative of the Deschutes County Farm Bureau.

#### HISTORY

*Adopted by Ord. [PL-15](#) §6.050 on 11/1/1979*

*Amended by Ord. [92-036](#) §1 on 4/29/1992*

*Amended by Ord. [92-055](#) §10 on 8/17/1992*

*Amended by Ord. [93-043](#) §20C on 8/25/1993*

*Amended by Ord. [96-035](#) §1 on 4/24/1996*

*Amended by Ord. [98-035](#) §1 on 6/10/1998*

*Amended by Ord. [2001-004](#) §3 on 5/23/2001*

*Amended by Ord. [2001-033](#) §1 on 10/10/2001*

*Amended by Ord. [2008-007](#) §3 on 8/18/2008*

*Amended by Ord. [2011-009](#) §1 on 10/17/2011*

*Amended by Ord. [2025-002](#) §31 on 2/26/2025*

*Amended by Ord. [2025-009](#) §11 on 6/18/2025*