

Deschutes County 2040 Comprehensive Plan Update

File No. 247-23-000644-PA

Module # 2

Issue Area	Applicable Plan Provision	Support / Opposition	Staff Comment	PC Decision Points
<p>1</p> <p>Should policy language be added to <u>require</u> any of the following measures:</p> <ul style="list-style-type: none"> • Water metering, monitoring and conservation of water from exempt wells, commercial, or industrial uses; and/or • Minimization of development dependent on exempt wells; and/or • Limitation on irrigation water for recreation features; and/or • Recycling of water for landscaping, irrigation, or drinking uses. 	<p>Chapter 5, Natural Resources, Water</p> <p>Policy 5.2.1. Support efficient water use through targeted conservation, educational and, as needed, regulatory or incentive programs.</p> <p style="margin-left: 20px;">a. Encourage new development to incorporate efficient water use practices for all water uses.</p> <p style="margin-left: 20px;">b. Encourage the reuse of grey water for landscaping.</p> <p style="margin-left: 20px;">c. Encourage and educate the community about the relative impacts of thinning or reduction of plant species that adversely impact forest health, water availability, and soil quality.</p> <p style="margin-left: 20px;">d. Encourage and educate the community about on-farm efficiency measures, including upgrades to equipment.</p> <p style="margin-left: 20px;">e. Encourage and educate the community about use of voluntary metering of water use to monitor seasonal impacts on water use.</p> <p style="margin-left: 20px;">f. Provide access to educational materials and tools related to water conservation including publications, information about grant opportunities, and/or partner with organizations on educational events.</p> <p style="margin-left: 20px;">g. Encourage and educate community members on stewardship of wetlands and waterways.</p> <p style="margin-left: 20px;">h. Provide access to educational materials about water-wise gardening and xeriscaping.</p> <p>Policy 5.5.2. Regulate land use patterns and promote best practices to preserve the integrity of the natural hydrologic system, recognize the relationship between ground and surface water, recognize basin-wide impacts, and address water impacts of new land uses and developments, including water-intensive uses.</p>	<ul style="list-style-type: none"> • Support: Several commentors expressed support for greater water conservation at a variety of levels, including voluntary measures, or required measures or limitations on development that could impact water supply. • Opposition: Several commentors expressed concern regarding impacts to private property rights from additional regulations. Other commentors expressed concerns about the County's expertise or ability to enforce additional regulations on water. 	<p>Staff notes there are jurisdictional limitations on placing additional requirements on use or establishment of wells, or water rights for irrigation. Oregon Water Resources Department is the authority on issuing permits, establishing new requirements, and enforcing existing requirements related to water use. Policies below discuss the state's groundwater mitigation and allocation programs, which are the most appropriate avenue to address these concerns.</p> <p>The draft language sought to promote efficient use of water through voluntary measures including education to property owners and providing access to materials and tools where possible.</p> <p>The Planning Commission could add an additional policy seeking to limit development in sensitive groundwater areas, although it would likely be difficult to enforce.</p>	<p>If yes, the Planning Commission may recommend Option A (new policy): Policy x.x.x Encourage state agencies to identify local areas of concern for water availability and explore additional regulations or requirements to ensure water capacity is not negatively impacted by development.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

2	<p>Should additional policies be added to address coordination with state agencies on water related issues:</p> <ul style="list-style-type: none"> • Coordination with governor’s office related to land use and water policies; and/or • Support for OWRD groundwater allocation and mitigation rules; and/or • Consideration of water availability during UGB expansion and rezoning processes. 	<p>Chapter 5, Natural Resources, Water</p> <p>Policy 5.5.3. Support OWRD’s efforts to update and modernize Oregon’s groundwater allocation rules and policies to protect existing surface water and groundwater users and to maintain sustainable groundwater resources.</p> <p>Policy 5.5.4. Support efforts by the OWRD in collaboration with Central Oregon Cities Organization, The Confederated Tribes of the Warm Springs Reservation of Oregon, and non-governmental organizations to revisit the Deschutes Basin Groundwater Mitigation Program.</p> <p>Policy 5.1.3. Consider potential impacts on water quality and availability in surrounding areas as part of the siting, planning, and approval processes for Destination Resorts and other large-scale developments.</p> <p>Policy 5.5.2. Regulate land use patterns and promote best practices to preserve the integrity of the natural hydrologic system, recognize the relationship between ground and surface water, recognize basin-wide impacts, and address water impacts of new land uses and developments, including water-intensive uses.</p>	<ul style="list-style-type: none"> • Support: Commentors expressed a desire for action at the local and state level to revisit water management and allocation. Specific comments asked the County to support OWRD’s groundwater mitigation and allocation rulemaking processes. Others expressed a desire for water availability and allocation to be addressed during UGB and rezoning processes. • Opposition: Commentors expressed concerns about the County’s expertise or ability to enforce additional regulations on water. 	<p>Oregon Water Resources Department is currently revisiting two areas of Oregon Administrative Rule – the first relates to groundwater allocation statewide and the issuance of new groundwater permits. The second area relates to the Deschutes Basin Mitigation program (which is set to sunset on January 2, 2029) and is specific to the Upper Deschutes Basin and requires applicants to mitigate impacts of new groundwater permits on surface water flows. Neither of these processes impact exempt wells.</p> <p>Staff notes the County has limited jurisdiction to review water availability during UGB expansion and rezoning processes. Staff notes the cities in Deschutes County may have concerns on a policy taking this approach.</p> <p>If the Commission wanted to include a policy related to this topic, we’d recommend a more general policy advocating for water planning and policy changes at the state level. Staff believes that the existing policy language addresses the topics adequately as drafted and recommends retaining current language.</p>	<p>If yes, the Planning Commission may recommend Option A (new policy): Policy x.x.x Engage Governor’s office on new policies related to land use and water management, including water planning for growth of cities.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>
3	<p>Should policy language relating to tribal governments on water and wildlife related issues be amended?</p>	<p>Chapter 5, Natural Resources, Water</p> <p>Policy 5.1.4. Develop better understanding of The Confederated Tribes of the Warm Springs Reservation of Oregon’s treaty-protected rights to co-manage the water resources of the Deschutes Basin.</p> <p>Policy 5.4.1. Coordinate with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers and stakeholders to protect and enhance fish and wildlife habitat in river and riparian habitats and wetlands.</p> <p>Policy 5.4.8. Coordinate with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers to address water-related public health issues.</p> <p>...</p> <p>Chapter 5, Natural Resources, Wildlife</p> <p>Policy 5.7.5. Develop better understanding of The Confederated Tribes of the Warm Springs Reservation of Oregon’s treaty-protected rights to co-manage the wildlife resources of the Deschutes Basin.</p>	<ul style="list-style-type: none"> • Support: Commentors expressed support for acknowledgement of treaty related first water rights and co-management responsibilities held by tribes. • Opposition: Commentors expressed support for clarifying coordination with tribes is not required as code criterion but should be promoted. 	<p>Staff notes the Land Use Board of Appeals recently weighed in on the topic of tribal coordination and treaty rights for water related issues and it will likely be appealed to the Oregon Court of Appeals.</p> <p>The language, as drafted, promotes coordination and directs the County to explore the topic of treaty rights to better understand tribal standing during review of new development.</p> <p>Staff recommends retaining the language as currently drafted and to continue to explore this topic and refine processes as appropriate.</p>	<p>If yes, the Planning Commission may recommend Option A (new policy): Policy x.x.x. Explore interaction between treaty protected water rights and County regulations.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

4	Should additional references to the wild and scenic waterway status for the Deschutes River be added to the Comprehensive Plan?	<p>Chapter 5, Natural Resources, Water</p> <p>Policy 5.3.2. Work with The Confederated Tribes of Warm Springs Reservation of Oregon and other federal, state, and local agency resource managers to restore, maintain and/or enhance healthy river and riparian ecosystems and wetlands, including the following:</p> <p>...</p> <p>e. Evaluate waterways in coordination with OPRD for possible designation under the Scenic Waterways program;</p> <p>...</p>	<ul style="list-style-type: none"> • Support: Commentors expressed support of additional information regarding the Deschutes River’s wild and scenic waterway status in the chapter narrative, and potentially integrating voluntary guidance and standards from the 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Management Plan into county code. • Opposition: N/A 	<p>The state program is administered by Oregon Parks and Recreation Department. Notice of land use applications are sent to OPRD for review and comment. Other requirements from this program, such as limitations on structure height, have been integrated into county code. These requirements are layered into additional scenic protections for rivers through the County’s Landscape Management Combining Zone. There may be voluntary requirements that have not yet been implemented into the county code.</p> <p>As this is an existing status and program, staff could provide additional information regarding this designation in the chapter narrative and recommend the PC direct staff to do so.</p> <p>Alternatively, the PC could recommend new policy language to audit this plan and incorporate any voluntary recommendations.</p>	<p>If yes, the Planning Commission may recommend Option A (new policy):</p> <p>Policy x.x.x. Revisit recommendations of 1996 Upper Deschutes Wild and Scenic River and State Scenic Waterway Comprehensive Plan, or its successor, and consider implementation of voluntary recommendations into the county code.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>
5	Should policy language be amended to ensure County participation in the Deschutes Basin Water Collaborative?	<p>Chapter 5, Natural Resources, Water</p> <p>Policy 5.1.1. Participate in statewide and regional water planning including, but not limited to:</p> <p>a. Work cooperatively with appropriate federal, state, tribal and local agency resource managers, such as The Confederated Tribes of the Warm Springs Reservation of Oregon, the Oregon Water Resources Department (OWRD), and other stakeholders and nonprofit water organizations, such as the Deschutes Basin Water Collaborative and the County Soil and Water Conservation District;</p>	<ul style="list-style-type: none"> • Support: Commentor expressed support for participation in the Deschutes Basin Water Collaborative. • Opposition: N/A 	<p>Deschutes County currently participates in the Deschutes Basin Water Collaborative, with a County Commissioner serving as one of three Chairs of the group.</p> <p>Staff believes the current language addresses the desire for participation in regional water planning and collaboration with this group and recommends retaining the current language.</p> <p>If desired, the PC could draft a new policy to emphasize the importance of participating in this particular effort.</p>	<p>If yes, the Planning Commission may recommend Option A (new policy):</p> <p>Policy x.x.x Participate in Deschutes Basin Water Collaborative, or any replacement thereof.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

6	Should policy language related to dark skies lighting be strengthened?	<p>Chapter 5, Natural Resources, Environmental Quality</p> <p>Policy 5.10.2. Implement a dark skies educational and or incentive program and periodically update the Dark Skies ordinance to reduce the impacts of light pollution and reduce lighting impacts on adjacent properties.</p>	<ul style="list-style-type: none"> • Support: Commentors expressed support for strengthening dark skies regulations. • Opposition: Commentors expressed desire for balancing resource protection with private property rights. 	<p>Staff notes that in previous discussions on this topic, community members noted a combination of regulation and education was important to reduce the impact of light pollution. The existing policy language was drafted to promote ongoing education, use of incentives, and audit of County Code to reflect best practices.</p> <p>The Board of County Commissioners directed staff to explore this topic in the 2023-2024 annual work plan.</p> <p>Staff recommends retaining the current language as drafted.</p>	<p>If yes, the Planning Commission may recommend Option A (alternative language): Policy 5.10.2. Implement a dark skies educational and or incentive program and periodically update the Dark Skies ordinance to reduce <u>reverse</u> the impacts of light pollution and reduce lighting impacts on adjacent properties.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>
7	Should the County add new policies to address climate and air quality issues from human activities?	<p>Chapter 5, Natural Resources, Environmental Quality</p> <p>Policy 5.11.5. Develop and implement a Climate Action Plan to address the potential future impacts of climate change on Deschutes County.</p>	<ul style="list-style-type: none"> • Support: Commentors expressed support for additional policies to address human – related climate and air quality issues. • Opposition: N/A 	<p>A significant amount of community members who participated in engagement activities during development of the draft plan cited concerns related to impacts of climate and air quality issues from human activities. During our second round of outreach, community members were asked if the County should develop a Climate Action Plan. Community members were generally supportive.</p> <p>The current language seeks to explore this topic in greater detail through a separate process, which would allow for comparison of scientific studies and community sentiments on this topic.</p> <p>Staff recommends retaining the current language as drafted.</p>	<p>If yes, the Planning Commission may recommend Option A (amended language): Policy 5.11.5. Develop and implement a Climate Action Plan to Address the potential future impacts of climate change on Deschutes County <u>through incentives and or regulations.</u></p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

8	<p>Part 1: Should the County update wildlife inventories regularly and expand protection for wildlife species?</p> <p>Part 2: Should state and federal recommendations be explicitly incorporated into these inventories or protections?</p>	<p>Chapter 5, Natural Resources, Wildlife</p> <p>Policy 5.7.2. Ensure Goal 5 wildlife inventories and habitat protection programs are up to date through public processes, expert sources, and current or recently adopted plans and studies.</p>	<ul style="list-style-type: none"> • Support: Commentors expressed support for greater protection of wildlife, including updates to Goal 5 inventories and incorporating data from ODFW along with other state and federal agencies, and expanding requirements for development to protect sensitive species. • Opposition: Commentors expressed support for considering methods to protect resources that do not limit or prohibit allowed uses on property, before exploring new regulations. Additionally, commentors expressed a desire for clear and objective criteria for natural resource protection to limit litigation. 	<p>Throughout the development of the draft plan, community members expressed support for wildlife protection and updates to inventory information generally, although community members had a mix of opinions on whether to utilize incentives, regulations, or a mixture of the two approaches.</p> <p>Several commentors also suggested that state and federal recommendations should be explicitly listed in the policy to ensure this information is incorporated.</p> <p>The current language seeks to ensure inventories are updated regularly and include the most accurate information possible, while promoting additional community conversations on the appropriate actions to reduce habitat impacts.</p> <p>Staff notes a separate goal and policy speaks to compliance with federal and state regulation for sensitive, threatened, and endangered species.</p> <p>Staff believes the existing language as drafted provides a middle ground approach and supports ongoing conversations on this topic.</p>	<p>If yes, the Planning Commission may recommend Option A (amended language): Policy 5.7.2. Ensure Goal 5 wildlife inventories and habitat protection programs are up to date through utilizing state and federal agency recommendations to best protect wildlife and habitat areas. public processes, expert sources, and current or recently adopted plans and studies.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>
9	<p>Should the County amend policy language to better balance protection of property rights and protection of wildlife resources through use of incentives instead of regulations?</p>	<p>Chapter 5, Natural Resources, Wildlife</p> <p>Policy 5.7.1. Promote stewardship of wildlife habitats through incentives, public education, and development regulations.</p> <p>Policy 5.7.3. Provide incentives for new development to be compatible with and to enhance wildlife habitat.</p> <p>Policy 5.7.4. Require, incentivize, or encourage clustering of development in inventoried wildlife areas to reduce impacts to wildlife populations.</p>	<ul style="list-style-type: none"> • Support: Commentors sought to ensure wildlife and resource protection issues are balanced with property rights. Some comments wanted to clarify that goals and policies do not create new procedural or substantive criteria for development applications. • Opposition: Commentors voiced support for actions to protect wildlife to the greatest extent possible, including additional regulations. 	<p>As noted above, community members were generally supportive of wildlife protection and inventory updates, although had mixed opinions on use of regulations vs. incentives.</p> <p>The current language seeks to find a middle ground, by promoting a mixture of both approaches and provides guidance to allow for community conversations during inventory updates and establishment of plan to protect wildlife resources.</p> <p>Staff believes the existing language as drafted provides a middle ground approach and supports ongoing conversations on this topic.</p>	<p>If yes, the Planning Commission may recommend Option A (amended language):</p> <p>Policy 5.7.1 Promote stewardship of wildlife habitats through incentives <u>and</u> public education, and development regulations.</p> <p>Policy 5.7.4. Require, Incentivize, or encourage clustering of development in inventoried wildlife areas to reduce impacts to wildlife populations.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

10	Should additional detail on the 2021-2023 wildlife inventory update project be added to the chapter narrative?	Chapter 5, Natural Resources, Wildlife Page 5-2 - 5-4	<ul style="list-style-type: none"> • Support: Commentor voiced support for including information in the narrative about the 2021-2023 inventory update process, including the Board determination to table the project. Other commentors voiced support for including additional information on causes of mule deer decline including but not limited to predation, trails, and homeless populations. • Opposition: N/A 	<p>Staff notes that the existing narrative provides an overview of the County's Goal 5 program and protected species. Much more detailed information is found in the County's existing Goal 5 inventories, which are an appendix to the plan and are not proposed to be changed aside from formatting during this process.</p> <p>If the Commissioners were interested in providing information on the 2021-2023 process, staff would recommend providing this general direction and these edits would be integrated into an updated draft for review by the Board of County Commissioners.</p>	<p>If yes, the Planning Commission may direct staff to draft additional narrative describing the 2021-2023 update project in this chapter.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>
11	Should a limitation be placed on housing and development in high wildfire risk areas?	No existing policies related to this topic.	<ul style="list-style-type: none"> • Support: Commentors expressed concern regarding residential development in high-risk areas, including contribution of development to more intense or frequent wildfire events and impacts on service providers. • Opposition: N/A 	<p>Staff notes that the state is currently drafting wildfire maps through SB 80 that would categorize and place additional requirements on development in extreme and high-risk areas. Other policies in this chapter speak to risk reduction, including coordination with service providers on development, code work to integrate best practices for fuels reduction, and greater coordination among agencies on preventing wildfires.</p> <p>Staff recommends retaining the current language as drafted and revisiting this topic once the wildfire maps are released by the Oregon Department of Forestry.</p>	<p>If yes, the Planning Commission may recommend the language in Option A (new): Policy x.x.x. Where state wildfire regulations offer local discretion, consider adopting additional protective regulations.</p> <p>If no, the Planning Commission may recommend retaining current language as drafted.</p>

12	Should an additional policy be added to require more than one access/egress route to a development or subdivision in hazard prone areas?	<p>Policy 7.1.11. Continue to review and revise County Code as needed to:</p> <p>...</p> <p>b. Require development proposals to include an impact evaluation that reviews the ability of the affected fire agency to maintain an appropriate level of service to existing development and the proposed development.</p> <p>...</p> <p>f. Require new subdivisions and destination resorts to achieve FireWise Standards or other currently accepted fire mitigation standards from the beginning of the projects and maintain those standards in perpetuity.</p> <p>Policy 7.2.1. Increase the quality, resiliency, diversity, and redundancy of utility and transportation infrastructure to increase chances of continued service following a natural disaster.</p> <p>Policy 7.2.4. Coordinate with emergency service providers when new development is proposed to ensure that response capacity can meet the needs of the new development.</p>	<ul style="list-style-type: none"> • Support: Community members cited support for this topic, including retrofitting existing developments to have two points of access/egress. • Opposition: N/a 	No action recommended, this topic ties into existing code criteria and staff will revisit as part of clear and objective standards.	<ul style="list-style-type: none"> • No action needed.
13	Should an additional policy be added to address availability of affordable fire insurance?	No existing policies related to this topic.	<ul style="list-style-type: none"> • Support: Community members cited support for the County to play a role in ensuring affordable fire insurance is available to property owners. • Opposition: N/a 	<p>Staff notes that the County has limited control or input related to pricing of private fire insurance and the implementation of this policy will likely be difficult.</p> <p>The County could advocate for legislation to enact public hazard insurance, similar to the National Flood Insurance Program.</p>	<ul style="list-style-type: none"> • If yes, the Planning Commission may recommend the language in Option A (new): Policy x.x.x. Advocate for affordable insurance program for properties in wildland urban interface. • If no, the Planning Commission may recommend retaining current language as drafted.

14	Should the County integrate Central Oregon Landwatch (COLW)'s recommended edits relating to the narrative summary of wildfire?	<p>Chapter 7, Natural Hazards</p> <p>Narrative – Page 7-3</p> <p>Wildfire. Historically, wildland fires have shaped the forests and wildlands valued by residents and visitors. These landscapes, however, are now significantly altered due to increased rural development and a general lack of large-scale treatments, resulting in overgrown forests with dense fuels that burn more intensely than in the past.</p>	<ul style="list-style-type: none"> • Support: COLW • Opposition: N / A 	<p>The existing narrative text was drafted by the project consulting team, including Tamarack Consulting LLC, a wildfire consultant with subject matter expertise in risk reduction. The referenced text is a one-paragraph summary from the beginning of the chapter. Staff notes a much more extensive discussion of wildfire is found on pages 7-4 – 7-5.</p> <p>The existing language acknowledges that previous forest management practices have led to forest overgrowth, a contributing factor to increases in the intensity and occurrence of wildfire events.</p> <p>The proposed text removes reference to the information and replaces it with language related to the impacts of conditions related to climate change.</p> <p>Staff recommends retaining the current language as drafted by the consultant team, as impacts of climate change and wildfire are addressed later on in the chapter narrative.</p>	<ul style="list-style-type: none"> • If yes, the Planning Commission may recommend the language in Option A (new): Wildfire. Historically, wildland fires have shaped the forests and wildlands valued by residents and visitors. These landscapes, however, are now significantly altered due to increased rural development and <u>the generally warmer and dryer conditions attributed to climate change are a root cause of increased fire severity in western forest and grasslands.</u> a general lack of large-scale treatments, resulting in overgrown forests with dense fuels that burn more intensely than in the past. • If no, the Planning Commission may recommend retaining current language as drafted.
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