



MEMORANDUM

TO: Deschutes County Board of County Commissioners (“Board”)

FROM: Nicole Mardell, AICP, Senior Planner

DATE: February 8, 2023

SUBJECT: Public Hearing - Amateur/HAM Radio Facility Amendments

The Board of County Commissioners (Board) will hold a public hearing on February 15, 2023, during its regularly scheduled meeting at the Deschutes Services Center, 1300 Wall Street, Barnes and Sawyer rooms, concerning amendments relating to amateur radio facilities.

Staff submitted a 35-day Post Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on November 28, 2022. Staff presented the proposed amendments to the Planning Commission at a work session on December 8, 2022¹. The initial public hearing was held on January 12, 2023², at which time the Planning Commission closed the oral and written record. The Planning Commission then deliberated on January 24, 2023, and recommended approval of the proposed amendments as drafted by staff. Staff presented the proposed amendments to the Board at a work session on February 13, 2023.

The record, which contains all memoranda, notices, and project materials is available for inspection on the project website:

<https://www.deschutes.org/cd/page/247-22-000912-ta-amateur-ham-radio-text-amendments>

Attached to this memorandum are the proposed text amendments and findings. Within the proposed amendments, added language is shown underlines and deleted language is shown as ~~strikethrough~~.

¹ <https://www.deschutes.org/bc-pc/page/planning-commission-23>

² <https://www.deschutes.org/bc-pc/page/planning-commission-31>

I. BACKGROUND

In 2008, the Deschutes County Board of County Commissioners adopted Ordinance 2008-007, establishing regulations for amateur radio facilities. The Board opted to apply the same regulations for any facility regardless of height and opted to except these facilities from the height limitations of the underlying zoning district.

In 2021 during the Community Development Department's annual work plan input process, the Board of County Commissioners and the County's Planning Division received testimony from a HAM/amateur radio operator expressing concern regarding the onerous requirements to establish smaller scale amateur radio facilities (under 70 feet), including a requirement to provide written demonstrations of compliance from Federal Aviation Administration (FAA), Oregon Department of Aviation (ODAV), and Federal Communications Commission (FCC). Due to the scope of review authority, operators often found that these agencies were not able to provide written determinations for small-scale facilities outside of airport and airport overlay zones, which led to a conflict with the County's code provisions.

Operators were instead seeking a pathway to simplify establishment of facilities under 70 feet, while still maintaining regulations for larger scale facilities that may have significant aesthetic impacts to surrounding properties and require written compliance from FAA, ODA, and FCC.

Staff also notes that ORS 221.295 limits restrictions on amateur radio facilities that are 70 feet or lower to those that are clearly linked to health, safety, or aesthetic objective. This results from FCC ruling in PRB-1 (codified in 47 CFR Part 97). Therefore, the County has limited authority to apply unnecessary regulations to amateur radio facilities outside of those directly addressing a health, safety, or aesthetic issue.

II. PROPOSAL

In coordination with the Deschutes County Building Division, Oregon Department of Aviation, and HAM radio operators, staff has drafted the revisions to DCC section 18.116.290 in Attachment 1. In summary, the amendments provide the following revisions:

- General cleanup of language and organization
- Cross-references requirement from 18.120.040(A)(1) that limits height to 30 feet in Airport Safety (AS), Airport Development (AD), and Landscape Management (LM) zones for clarity.
- Added two tiers of regulations based on height:
 - For facilities under 70 feet
 - Streamline review process – allowed as outright permitted accessory use

- No formal determination of written compliance from FAA, ODAV, FCC
- Maintains aesthetic and setback requirements
- For facilities between 70 and 200 feet
 - Explicitly requires land use review
 - Maintains requirement for coordination with FAA, ODAV, FCC
 - Maintains aesthetic and setback requirements

The applicant, in this case Deschutes County Community Development, has provided findings as an attachment which summarizes the amendments and demonstrates compliance with the Statewide Planning Goals, and applicable policies of the Deschutes County Comprehensive Plan.

III. PLANNING COMMISSION REVIEW

The Planning Commission held a work session on this item on December 8, 2022, followed by a public hearing on January 12, 2023. No written comments were received, and two parties testified during the hearing. One party expressed support for the amendments with general questions regarding height limitations in the Airport Safety and Airport Development Zones. Another party expressed opposition to the amendments, noting concern regarding the impact of facilities on view corridors and view sheds and questions regarding applicability of building permit review.

The Planning Commission closed the oral and written portions of the hearing on January 12, 2023³ and voted to unanimously to recommend approval of the proposed amendments at their subsequent meeting on January 24, 2023⁴.

IV. NEXT STEPS

At the conclusion of the public hearing, the Board may:

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date certain; or
- Close the hearing and commence deliberations.

Attachments:

1. Proposed Text Amendments – DCC Chapter 18.116.290
2. Proposed Findings
3. Draft Ordinance 2023-004

³ <https://www.deschutes.org/bc-pc/page/planning-commission-31>

⁴ <https://www.deschutes.org/bc-pc/page/planning-commission-32>