



## FINDINGS

### I. PROPOSAL

This is a legislative text amendment to Deschutes County Code (DCC), Title 18, County Zoning, and Title 19, Bend Urban Growth Boundary Zoning Ordinance. The primary purpose of the amendments is to allow RVs as rental dwellings subject to certain criteria per the adoption of SB 1013. The proposal creates two new subsections (effectively the same but pertaining to different zones in Titles 18 and 19) that govern the criteria for RVs as rental dwellings.

### II. BACKGROUND

#### A. Senate Bill 1013

The Oregon Legislature adopted SB 1013 into law on July 23, 2023; the law becomes effective January 1, 2024. SB 1013 authorizes a county to allow an owner of a lot or parcel in a rural area to site on the property one recreational vehicle that is used for residential purposes and is subject to a residential rental agreement and additional criteria outlined below. SB 1013 does not obligate a county to allow RVs as rental dwellings. SB 1013 shares some criteria with recent rural ADU legislation in SB 391, such as the requirement to provide sewage disposal, and differs in other ways—for instance, no fire hardening requirements are written into SB 1013.

Rural residential exception areas and their corresponding zones exist throughout Oregon. By definition, rural residential zones exist outside of urban growth boundaries (UGBs) but are excluded from the state’s resource land (farm and forest zone) protections. With certain exceptions, those protections allow residential uses only in conjunction with a farm or forest use. However, in rural residential zones, a dwelling can be a primary use of the land. State law allows counties to permit an additional dwelling on a property containing a house built prior to 1945 and SB 391 more generally allows accessory dwelling units in rural residential areas. However, unlike in urban zones, rural residential zones do not have any other by-right accessory dwelling options, making inter-generational and alternative housing options difficult to achieve.

SB 1013 only authorizes RVs as rental dwellings in “rural areas.” For the purposes of SB 1013, a rural area has two definitions: either an area zoned for rural residential use as defined in ORS 215.501, or land that is within the urban growth boundary of a metropolitan service district, but not within the jurisdiction of any city, and zoned for residential use. Deschutes County’s jurisdiction only includes lands outside of UGBs, so only the first component of the definition applies. Areas zoned for rural residential use are defined by ORS 215.501 to mean “land that is not located inside a UGB as defined in ORS 195.060 (Definitions) and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.” The applicable zoning designations in Deschutes

County for these lands are Multiple Use Agricultural (MUA-10), Rural Residential (RR-10), Suburban Low Density Residential (SR 2.5), Urban Area Reserve (UAR-10), and Westside Transect Zone (WTZ).

**B. Deschutes County Residential RV Amendments**

In addition to only applying to lands recognized as rural residential exception areas, SB 1013 also contains minimum criteria that must be met for a lot or parcel to qualify for an RV residential dwelling. As noted above, SB 1013 shares some similarities with SB 391, which allows for rural accessory dwelling units. In certain cases, the proposed amendments echo components of the zoning code developed in Deschutes County for rural ADUs. Lastly, the proposed amendments also contain additional criteria not included in SB 1013, for reasons of safety as well as compatibility.

Table 1 provides a summary of each provision of the amendments that are required by SB 1013.

**Table 1 – SB 1013 Requirements**

Topic	SB 1013 Requirements	Comment
<b>Single Family Dwelling</b>	SB 1013 Section 2(2)(b) requires one single-family dwelling that is occupied as the primary residence to be located on the lot or parcel.	DCC 18.116.095(D)(5) and DCC 19.92.170(A)(3) are consistent with SB 1013.
<b>Urban Reserve Area</b>	SB 1013 Section 2(2)(a) requires that the lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137.	DCC 18.116.095(D)(3) and DCC 19.92.170(A)(1) are consistent with SB 1013.
<b>Vacation Occupancy</b>	SB 1013 Section 2(2)(d) prevents an RV allowed in this law from being used for vacation occupancy as defined in ORS 90.100 or other short-term uses.	DCC 18.116.095(E) and DCC 19.92.170(A)(11) are consistent with SB 1013.  Both require a restrictive covenant be recorded to ensure compliance.
<b>Other Dwelling Units</b>	SB 1013 Section 2(2)(c) requires that there are no other dwelling units on the property and no portion of the single-family dwelling is rented as a residential tenancy.	DCC 18.116.095(D)(6) and DCC 19.92.170(A)(4) are consistent with SB 1013.
<b>RV Ownership</b>	SB 1013 Section 2(2)(e) requires the RV to be owned or leased by the tenant.	DCC 18.116.095(D)(7) and DCC 19.92.170(A)(5) are consistent with SB 1013.

Topic	SB 1013 Requirements	Comment
<p><b>Essential Services</b></p>	<p>SB 1013 Section 2(2)(f) requires that the property owner provides essential services to the RV space, as defined in ORS 90.100(13)(b).</p> <p>ORS 90.100(13)(b) defines “essential services” as: “For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 (Definitions for ORS 90.505 to 90.850) to 90.850 (Owner affidavit certifying compliance with requirements for sale of facility):</p> <p>(A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; <b>and</b></p> <p>(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730 (Landlord duty to maintain rented space, vacant spaces and common areas in habitable condition), the lack or violation of which creates a serious threat to the tenant’s health, safety or property or makes the rented space unfit for occupancy.”</p>	<p>DCC 18.116.095(D)(11) and DCC 19.92.170(A)(9) are consistent with SB 1013.</p> <p>In addition, these sections require the water supply to be frost protected and for a “Will Serve” letter to be provided if the recreational vehicle is to be served by any water source other than an onsite domestic well.</p>
<p><b>Reasonable appearance, repair, inspection, or siting standards</b></p>	<p>SB 1013 Section 2(3)(d) allows counties to require that the RV complies with any reasonable appearance, repair, inspection, or siting standards adopted by the county.</p>	<p>DCC 18.116.095(D) and DCC 19.92.170(A) contain the following appearance, repair, inspection, or siting standards:</p> <p>DCC 18.116.095(D)(4) and DCC 19.92.170(A)(2) require the lot area to be at least one acre in size.</p> <p>DCC 18.116.095(D)(8) and DCC 19.92.170(A)(6) require that the recreational vehicle include an operable toilet and sink.</p> <p>DCC 18.116.095(D)(9) and DCC 19.92.170(A)(7) require that if the recreational vehicle is located within a structure, the structure must be entirely open on two or more sides.</p> <p>DCC 18.116.095(D)(10) and DCC 19.92.170(A)(8) require that the recreational vehicle maintains a setback of at least 10 feet from the primary residence.</p> <p>DCC 18.116.095(D)(12) and DCC 19.92.170(A)(10) require that the</p>

Topic	SB 1013 Requirements	Comment
		<p>property owner provide a parking pad for the recreational vehicle.</p> <p>DCC 18.116.095(D)(13) requires that for properties located within the Wildlife Area Combining Zone, recreational vehicles are considered a structure and therefore must comply with the siting standards in 18.88.060(B).</p>

Using the baseline eligibility criteria of SB 1013 plus the lot size criteria suggested by staff, approximately 12,410 properties meet the zoning requirement, are at least one acre in size, and already have a single-family dwelling on the property. An additional 2,909 properties are currently vacant but meet the other baseline criteria.

### 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 one, 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 and Board of County Commissioners.

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, and the Board of County Commissioners' public hearing.

**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:** Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

**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 November 9. The Board then held a public hearing on [DATE TBD]. 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. [number TBD] upon approval and adoption by the Board of County Commissioners. This criterion will be met.

**B. Statewide Planning Goals and Guidelines**

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing.

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 October 4, 2023. The Planning Commission held a public hearing on November 9, 2023 and the Board of County Commissioners held a public hearing on [DATE TBD]. The Findings document provides the adequate factual basis for the amendments.

Goal 3: Agricultural Lands: No changes related to agricultural lands are proposed as part of the text amendments. This goal does not apply.

Goal 4: Forest Lands: No changes related to forest lands are proposed as part of the text amendments. This goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: By adopting SB 1013 in 2023, the Oregon Legislature added a new use, recreational vehicle as residential tenancy (or rental dwelling), to rural residential exception areas. Local governments can choose to allow this use by amending their zoning codes and complying with SB 1013's development standards. Goal 5 does not apply.

However, to the extent it is determined that Goal 5 does apply, local governments apply Goal 5 to a PAPA when the amendment allows a new use and the new use could be a conflicting use with a particular Goal 5 resource site on an acknowledged resource list. Certain areas in rural Deschutes County, zoned MUA-10 and RR-10, contain Goal 5 resources because they are overlaid with a Wildlife Area Combining Zone. These two zones are being amended to allow RVs as rental dwellings and are therefore subject to an ESEE Analysis. No other changes to the code warrant specific ESEE Analysis as they are not adding new uses that conflict with Goal 5 resources. The ESEE analysis is included in *Appendix A* which is attached to this document.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6, and therefore are in compliance. However, it is worth noting that the amendments require a minimum lot size of 1 acre in an effort to protect sensitive groundwater resources that can be further stressed by the wastewater disposal of denser development patterns. To further protect these resources, SB 1013 requires that the property owner provide sewage disposal, and

applicants must receive a permit from Deschutes County Onsite Wastewater Division before disposing any wastewater or sewage on-site.

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

Goal 8: Recreational Needs: Recreational vehicles as rental dwellings are not a recreational use or need, but rather are intended to provide housing. This goal does not apply.

Goal 9: Economic Development: Recreational vehicles as rental dwellings are not primarily economic in nature. This goal does not apply.

Goal 10: Housing: This goal is not applicable because unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services: Recreational vehicles as rental dwellings in the rural county typically rely on domestic wells and onsite wastewater treatment systems. A Goal 11 exception would be required for a centralized sewer system and would need to be applied on a property specific, needs related basis. This goal does not apply.

Goal 12: Transportation: By adopting SB 1013 in 2023, the Oregon Legislature added a new use, recreational vehicles as rental dwellings, to rural residential exception areas. Local governments can choose to allow this use by amending their zoning codes and complying with SB 1013's development standards. Staff does not anticipate that the addition of recreational vehicles as rental dwellings on approximately 12,410 currently eligible lots will create a significant or adverse effect to the County transportation system and thus complies with the TPR.

Goal 13: Energy Conservation: The proposed text amendments do not propose to change the County's implementing regulations regarding energy conservation. This goal does not apply.

Goal 14: Urbanization: The purpose of Goal 14 is to direct urban uses to areas inside UGBs. As the proposed amendments do not seek to allow urban uses on rural land, nor do they seek to expand an existing urban growth boundary, this goal does not apply.

Goals 15 through 19: Deschutes County does not contain any of the relevant land types included in Goals 15-19. Therefore, these goals do not apply.

## **C. Deschutes County Comprehensive Plan**

### **Chapter 3, Rural Growth**

#### 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.*

**FINDING:** Implementing SB 1013, which allows recreational vehicles as rental dwellings to be sited in rural residential exception areas, is consistent with Policy 3.3.5, providing a needed housing option in the rural county.

**V. CONCLUSION:**

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments to allow an owner of a lot or parcel within a rural residential exception area to site a recreational vehicle as rental dwelling subject to certain restrictions and limitations.

# **Recreational Vehicles as Rental Dwellings Text Amendment**

**Appendix A: ESEE Analysis Document to**

**File No. 247-23-000700-TA**

Deschutes County Community Development

October 4, 2023

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# Chapter 1: Overview of Goal 5 and ESEE Analyses

## Introduction

This appendix report was prepared to supplement the findings document associated with File No. 247-22-000700-TA. Deschutes County is amending Deschutes County Code (DCC), Titles 18 and 19 to allow recreational vehicles (RV) as rental dwellings consistent with Senate Bill (SB) 1013 (2023) in Multiple Use Agricultural (MUA-10), Rural Residential (RR-10), Suburban Low Density Residential (SR 2.5), Urban Area Reserve (UAR-10), and Westside Transect Zones (WTZ). DCC Chapter 18.88 is the Wildlife Area (WA) Combining Zone, which recognizes four Goal 5 inventories: Antelope Range, Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Certain areas in rural Deschutes County, zoned MUA-10 and RR-10, are overlaid with a Deer Migration Corridor, Deer Winter Range, and/or Significant Elk Habitat.

In addition, there are some areas zoned MUA-10 and RR-10 that contain Goal 5 riparian resources and their associated fish, furbearer, waterfowl, and upland game bird habitat. Recognizing that an RV as rental dwelling is a new conflicting use in the WA Combining Zone, Deschutes County is applying Goal 5 in consideration of this Post Acknowledgment Plan Amendment (PAPA). The full findings document provides additional detail and background information regarding the intent of the amendments and compliance with other applicable local and state regulations outside of Statewide Land Use Planning Goal 5 – *Natural Resources, Scenic and Historic Areas, and Open Spaces*.

## Deschutes County Goal 5 Program

The purpose of Goal 5 is “to protect natural resources and conserve scenic and historic areas and open spaces.” Local governments, as part of the Comprehensive Planning process, are required to inventory the extent, location, quality, and quantity of significant natural resources within their jurisdictional boundaries. Following this inventory, local governments then conduct an economic, social, environmental, and energy (ESEE) analysis to determine the extent to which land uses should be limited in order to adequately protect significant resources. Following an ESEE analysis, governments then establish a program to protect significant natural resources. Deschutes County established its initial Goal 5 natural resource inventory, ESEE analyses, and protection programs between the years of 1988-1994, as part of periodic review.

In reviewing this document, it is important to acknowledge there are six policies and development standards within the Deschutes County Comprehensive Plan and DCC that were established through ESEEs over time that could still limit the development of RVs as rental dwellings near inventoried Goal 5 resources. Deschutes County finds the proposed amendments do not alter the following existing protections.

1. Setback Protections: 100-foot structural setback from the ordinary high water mark (OHWM) of rivers and streams.

2. Scenic Protections: Development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections: Prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections: Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by Oregon Department of Fish and Wildlife (ODFW).
5. Flood Plain Protections: All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain must obtain a conditional use permit.
6. Combining Zone Requirements: Deer Migration Corridor, Deer Winter Range, Elk Habitat, and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and/or seasonal construction requirements to prevent impacts to sensitive species and habitat.

## Required Steps and Discretionary Review

Local governments are required to comply with Goal 5 when a PAPA allows a new use and the new use “could be” a conflicting use with a particular Goal 5 resource site on an acknowledged resource list.<sup>1</sup> Deschutes County is amending the MUA-10, RR-10, SR 2.5, UAR-10 and WTZ zoning chapters to allow recreational vehicles as rental dwellings consistent with SB 1013 (2023).

Residential RVs have the potential to generate a certain level of noise and habitat alteration. As this new use could potentially impact Goal 5 resources, Deschutes County is conducting an ESEE Analysis to identify potential consequences and protections related to the amendments. RVs as rental dwellings will be added as a new permitted use in the MUA-10, RR-10, SR 2.5, UAR-10 and WTZ zones. As shown below, only two of those zones, MUA-10 and RR-10, contain Goal 5 resources and are being reviewed as part of this ESEE analysis.

**Table 2: Zones Containing Goal 5 Resources**

Contain Goal 5 Resources	Do Not Contain Goal 5 Resources
<ul style="list-style-type: none"> <li>• DCC Chapter 18.32, Multiple Use Agricultural Zone</li> <li>• DCC Chapter 18.60, Rural Residential Zone</li> </ul>	<ul style="list-style-type: none"> <li>• DCC Chapter 19.12, Urban Area Reserve Zone</li> <li>• DCC Chapter 19.20, Suburban Low Density Residential Zone</li> <li>• DCC Chapter 19.22, Westside Transect Zone</li> </ul>

<sup>1</sup> OAR 660-023-0250(3)(b)

ESEEs are meant to be analytical tools. The content of the ESEE is discretionary and is intended to be conducted by planning staff using existing information. An ESEE is not meant to focus exclusively on environmental impacts such as an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). Additionally, Goal 5 explains “the ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected.”<sup>2</sup> In utilizing this analytical tool, there are a few steps jurisdictions must include and address in accordance with OAR 660-023 – *Procedures and Requirements for Complying with Goal 5*:

1. Identify Conflicting Uses – Does the land use or activity negatively impact natural resources?
2. Determine Impact Area – What is the geographic extent to which land uses or activities adjacent to natural resources could negatively impact those resources?
3. Analyze ESEE Consequences – What are the positive and negative consequences (both for development and natural resources) of a decision to fully protect natural resources, fully allow conflicting uses, or limit conflicting uses?
4. Develop a program – How and to what extent will the natural resources be protected based on the ESEE analysis?

A response to each of these steps is included throughout this report. The relevant page and chapter can be found in the table of contents.

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<sup>2</sup> OAR 660-023-0040(1)

## Chapter 2: Deschutes County Goal 5 Inventory and Methodology

### **660-23-0030 – Inventory Goal 5 Resources**

Stemming from periodic review, Deschutes County adopted inventories for a variety of Goal 5 natural resources (Attachment 1). Some of these resources have mapped geographic boundaries such as Deer Winter Range, whereas others are described as being located in general areas – such as furbearer habitat in riparian corridors. The inventories were produced at a countywide scale, with additional detail for the Deschutes River and its tributaries through the Deschutes County/City of Bend River Study. County staff digitized these habitat boundaries into Geographic Information Systems (GIS) shape files in the 2000s for public awareness. The shape files were created from hard copy maps and descriptions found in the ordinances establishing the County's Goal 5 program, in consultation with the Oregon Department of Fish and Wildlife (ODFW).

Maps provided in this document include inventoried habitat that spatially overlaps with the MUA-10 and RR-10 zones impacted by the proposed text amendments (Attachment 2). The habitat areas include: deer migration corridor, deer winter range, elk habitat, flood plain, and wetlands. Staff utilized the County's WA Combining Zone layers to determine the general extent of habitat for big game species as the Combining Zone was designed to cover a larger area than the habitat itself (Ordinance 92-046). Inventoried streams and rivers are shown on the map, as well as wetlands and flood plains. Goal 5 Riparian areas (flood plain, wetlands and 100 feet measured from ordinary high water mark) associated with these water bodies is also the habitat area for fish, furbearers, waterfowl, and upland game birds (Ordinance 92-041, 94-007). As the proposed text amendments are legislative and do not impact any specific properties, staff did not review Goal 5 impacts on an individual parcel level basis. Instead, staff identified the following potential resource sites in which the allowance of RVs as rental dwellings could potentially intersect with Goal 5 resources:

Riverine Resources: Some properties in the MUA-10 and RR-10 zones are located in relative proximity to the Deschutes River, Little Deschutes River, Paulina Creek, and Whychus Creek and its associated Goal 5 Riparian Area.<sup>3</sup> Ordinance 92-041 stated the following additional Goal 5 resources depend on riparian corridors for habitat: furbearer, waterfowl, and upland game bird habitat. As the extent of the habitat locations for these species are not detailed in a boundary description or on a map, staff assumes the species habitat is found entirely inside the Riparian Area boundary shown in Attachment 2.

Wildlife Area Combining Zone: The WA Combining Zone was adopted as a protection measure for antelope, deer, and elk in Deschutes County. As an overlay zone, the mapped area conservatively identified typical habitat and migration areas and provided additional development requirements to ensure impacts to wildlife are properly mitigated alongside the underlying base zone regulations.

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<sup>3</sup> There are 404 RR-10 tax lots that are one acre or larger with a single-family dwelling and 247 that are vacant that abut the Little Deschutes River or Deschutes River. There are 479 tax lots one acre or larger that are split-zoned RR-10 or MUA-10 with the Flood Plain Zone that contain a single-family dwelling and 291 that are vacant. The Flood Plain Zone is not recognized as a rural residential exception area. RR-10 and MUA-10 split zoned properties will be required to contain the minimum lot or parcel area to qualify for an RV as rental dwelling.

The zone encompasses the previously inventoried area for Antelope Range, Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. The proposed amendments add a conflicting use, RVs as rental dwellings, which affect three habitat ranges in MUA-10 and RR-10: Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. These habitat ranges are shown in Attachment 2. The maps include federal land; however, these properties are not subject to Deschutes County land use regulations.

The Deschutes County Goal 5 inventory also includes scenic and open space sites such as Landscape Management Rivers and Streams, State Scenic Waterways and Federal Wild and Scenic Rivers, and Ecologically and Scientifically Significant Natural Areas - Little Deschutes River / Deschutes Confluence (Attachment 1). Protection of these resources is focused on mitigating visual impacts of individual development proposals. Staff finds these resources are not impacted by the proposed amendments and therefore are not reviewed in this document.

## Chapter 3: Conflicting Use Analysis

**660-023-0040(2): Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site.**

Deschutes County is proposing to add RVs as rental dwellings in the MUA-10 and RR-10 zones in the WA Combining Zone. RVs could be a conflicting use to significant Goal 5 resources as they generate vehicle trips and noise. Other uses that are allowed in the two zones are shown below.

**Table 3: Allowed Uses**

Zoning	Outright Uses	Conditional Uses
MUA-10	Agricultural uses Single family dwelling or manufactured home Harvesting a forest product Class I and II road or street projects subject to land division standards Class III road or street project Noncommercial horse stables Horse events Operation, maintenance and piping of canals Type I Home occupation Historic accessory dwelling units	Public use Semipublic use Dude ranch Kennel and/or veterinary clinic Guest house Manufactured home as a secondary accessory farm dwelling Exploration for minerals Private parks Personal use airstrip Golf course Type 2 or 3 Home occupation Destination resorts Planned developments Cluster developments Landfills Timeshare Hydroelectric facility Storage, crushing and processing of minerals Bed and breakfast inn Excavation, grading and fill Religious institutions Private or public schools Utility facility Cemetery Commercial horse stables Horse events Manufactured home park or RV park Wireless telecommunication facilities Guest lodge Surface mining in conjunction with operation and maintenance of irrigation system

Zoning	Outright Uses	Conditional Uses
RR-10	Single family dwelling or manufactured home Utility facility Community center Agricultural use Class I and II road or street projects subject to land division standards Class III road or street project Noncommercial horse stables Horse events Operation, maintenance and piping of canals Type I Home occupation Historic accessory dwelling units	Public park Dude ranch Personal use airstrip Planned developments Cluster developments Recreation-oriented facility Landfills Cemetery Timeshare Hydroelectric facility Bed and breakfast inn Golf course Excavation, grading and fill Religious institutions Public use Semipublic use Commercial horse stables Private or public schools Manufactured home park or RV park Wireless telecommunication facilities Surface mining in conjunction with operation and maintenance of irrigation system

### General Impacts of Conflicting Uses

The proposed amendments would allow RVs as rental dwellings in inventoried Goal 5 resources. As part of the ESEE review “a local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning”.<sup>4</sup> In reviewing the proposed amendments, Deschutes County finds that the impacts from RVs in the MUA-10 and RR-10 zones as they relate to Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat are of such a similar nature that the impacts for these areas may be reviewed together via the general impacts described below.

- *Noise and Light*

RVs as a secondary dwelling may distress inventoried wildlife, as they seek to avoid noise and light.

- *Habitat Removal*

Preparing an appropriate site on a lot for an RV could require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

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<sup>4</sup> OAR 660-023-0040(4)

- *Introduction of Invasive, Nonnative Plants*

RVs may contribute to the spread of invasive, nonnative plants which could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development may result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

Greater detail on these potential conflicts and their consequences is provided below.

## Chapter 4: Impact Areas

**660-023-0040(3): Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.**

This step is discretionary and allows for the local jurisdiction to define which areas are the most vulnerable and/or most likely to be affected by the proposed amendments. The impact area for this ESEE analysis are properties that are within the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat in the MUA-10 and RR-10 zones. As this ESEE is not for any specific property, but instead reflects changes to the code generally, there is no individual property specific data.

Properties in this impact area can be found in Attachment 2 – *Impact Area Maps*

### Impact Area Methodology

To understand the impact of the proposed amendments within the areas of significance noted above, an estimate of the number of parcels in those areas that meet the baseline RV as rental dwelling criteria and are non-federal (i.e. subject to Deschutes County zoning) is shown in Table 4 below. The table also provides an estimate for vacant parcels that meet the other eligibility criteria; these properties would not be eligible until a single-family dwelling is constructed first.

**Table 4: Number of Affected Non-Federal Properties in Impact Area**

<b>Zone</b>	<b>Deer Migration</b>	<b>Deer Winter</b>	<b>Elk</b>
Properties Containing One Single-Family Dwelling	4,059	518	169
Vacant Properties (Not Yet Eligible)	1,317	185	104
<b>Total</b>	<b>5,376</b>	<b>703</b>	<b>273</b>

## Chapter 5: ESEE Analysis

**660-023-0040(4): Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.**

### Background

Deschutes County is choosing to conduct a single analysis for all resource sites as the impacts from RVs as rental dwellings could have very similar impacts to both riparian areas and fish and wildlife that depend on the riparian area for their habitat, and for big game including deer and elk.

As described above, the potential impacts fall into four general areas:

- *Noise and Light*

RVs as a rental dwelling may distress inventoried wildlife, as they seek to avoid noise and light.

- *Habitat Removal*

Preparing an appropriate site on a lot for an RV could require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

- *Introduction of Invasive, Nonnative Plants*

RVs may contribute to the spread of invasive, nonnative plants which could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development may result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

This step is discretionary. The purpose of an ESEE analysis is to provide a qualitative exercise for local governments to weigh the positive and negative consequences of three scenarios in order to determine a preferred outcome. Governments may choose to use quantitative data as necessary but are not required to gather new information or hire wildlife biologists, economists, sociologists, or energy consultants.

## **ESEE Scenario Descriptions**

### *Scenario (A) – Allow the Conflicting Use*

In this scenario, the local government may decide that a conflicting use should be allowed fully, without any restrictions, no matter the potential impacts on the inventory site(s). In this instance, the Goal 5 rule would require the government to determine the conflicting use is of such importance compared to the site that the use should be allowed without any protections or limitations. In choosing this scenario, the local government could still use other tools to protect the inventories that are currently in place.

### *Scenario (B) – Prohibit the Conflicting Use*

In this scenario, the local government may decide that the inventory site is of such importance or the conflicting use has the potential to be so detrimental to the inventory site(s), that the conflicting use should be entirely prohibited.

### *Scenario (C) – Limit the Conflicting Use*

In this scenario, the local government may decide that the inventory site and the conflicting use are both important when compared to each other, and the use should be allowed with limitations to balance the impacts to the inventory site(s).

## **RVs as Rental Dwellings ESEE Analysis**

### **Scenario (A) Allow the Conflicting Use**

In this scenario, Deschutes County would allow RVs as rental dwellings in MUA-10 and RR-10 zones without any additional requirements to protect the inventoried resources.

### ***Economic Consequences:***

Permitting RVs as rental dwellings would have positive consequences by allowing a second dwelling on a property. Deschutes County is experiencing a housing shortage. Allowing RVs, which are generally small in size and cannot be used as vacation rentals, could help address work force housing shortages in the region and provide a housing type that has not historically been readily available in the rural county. It could reduce commuting costs for those workers that live in adjoining Crook, Jefferson and Klamath counties, and coupled with other workforce housing strategies, attract businesses and employment opportunities in Central Oregon.

Allowing RVs could also have negative consequences. The development of RVs as rental dwellings in MUA-10 and RR-10 zones could increase land value, which could price out low and middle-income residents from the opportunity to own a home. Previous testimony from ODFW estimates that hunting and wildlife viewing contributed more than \$50 million to the Deschutes County economy

annually. Deschutes County is proposing to allow RVs in some areas that contain riparian areas and species that rely on the riparian area for habitat including fish, furbearers, upland game birds, and waterfowl. Allowing RVs near these areas could reduce income associated with wildlife viewing and hunting of these species.

In some parts of the county, mule deer populations have declined up to 70% since 2000 as a result of human caused habitat reduction, fragmentation, and disturbance on winter range. By allowing RVs in Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat, there is the potential for greater disturbance of deer and elk populations that could reduce hunting and viewing opportunities.

***Social Consequences:***

Permitting RVs as rental dwellings could have positive consequences by allowing property owners with an existing single family dwelling to rent out an RV that accommodates aging parents or family members, farm help for those that are working on MUA-10 zoned agricultural properties or nearby Exclusive Farm Use zoned properties. By providing affordable housing, it could help lift people out of poverty and increase economic mobility. It could bring a positive impact on the surrounding community, encouraging social connections and lowering crime rates.

It could also have negative consequences by allowing RVs as rental dwellings in rural areas with inadequate access to employment, schools, food markets, medical facilities and parks. This could lead to higher automobile dependence and vehicle emissions caused by more people driving to and from rural areas. Based on previous testimony from ODFW, there could also be negative impacts due to the potential loss of wildlife habitat. Many residents, advocacy organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region's rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, however incrementally, Deschutes County's rural character and quality of life. The proposed amendments could have negative consequences due to increased human presence and infrastructure near the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

***Environmental Consequences:***

In this scenario, RVs as rental dwellings would be permitted outright. As stated previously, RVs could present negative impacts as they have the potential to increase noise and light near fish and wildlife habitats, and in turn cause distress to inventoried Goal 5 species.

Developing an appropriate site for an RV may require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat. Given the relatively small footprint of RVs, however, these impacts may be minor compared to other development types. Permitting RVs could create negative impacts to designated habitat for Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Based on previous testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions

in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range.

As previously stated, the following Goal 5 protections established during the creation of the initial inventory would remain in place:

1. Setback Protections: 100-foot structural setback from the ordinary high water mark of rivers or streams.
2. Scenic Protections: Development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections: Prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections: Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by ODFW.
5. Flood Plain Protections: All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain shall obtain a conditional use permit.
6. Combining Zone Requirements: Deer Migration Corridor, Deer Winter Range, Significant Elk Habitat and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and seasonal construction requirements to prevent impact to sensitive species and habitat.

Existing protections would prevent riparian areas from being developed with ADUs established near them. As the existing Goal 5 measures in place today protect riparian areas and the fish and wildlife within that habitat area, the addition of ADUs near these areas will be neutral.

***Energy Consequences:***

RVs as rental dwellings are unlikely to cause any major energy consequences. Per SB 1013, the property owner must provide essential services, which includes electricity and wastewater disposal, to the RV site. It can also rely on an existing domestic well.

A potential negative consequence of the proposed amendments could be additional development in rural Deschutes County. Depending on the location of the RV, it could lead to additional Vehicle Miles Traveled and greater congestion on county-owned roads for employment, education, and basic services.

### **Scenario (B) Prohibit the Conflicting Use**

In this scenario, Deschutes County would not allow RVs as rental dwellings in the MUA-10 and RR-10 zones associated with the WA Combining Zone and Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat.

#### ***Economic Consequences:***

Prohibiting RVs could have negative economic consequences, as it prevents certain property owners from using their land and having a secondary dwelling unit. This could contribute to workforce housing deficiencies in the region and compel residents to commute from adjoining areas in Crook, Jefferson, and Klamath Counties.

It could also have neutral consequences based on previous testimony from ODFW. Prohibiting RVs could contribute to stabilizing mule deer populations, thereby maintaining economic benefits from wildlife viewing or hunting. Wildlife viewing, hunting, and fishing experiences in Deschutes County are major economic assets to the region. Prohibiting RVs could minimize further habitat fragmentation and help maintain wildlife viewing, hunting, and fishing revenues in Deschutes County.

#### ***Social Consequences:***

Prohibiting ADUs could have negative social consequences. Many residents and multi-generational families in Deschutes County need affordable housing and are rent-burdened. Limiting the potential supply of a unique housing type could exacerbate Central Oregon's housing crisis by forcing some residents to pay higher rents, commute longer distances for basic services, or relocate. Those circumstances could lead to further mental and physical stress.

It could also have positive consequences. Many residents express their appreciation for undisturbed landscapes because they contribute to Deschutes County's rural character and quality of life. Prohibiting RVs, which generate noise and light would continue to limit disturbance to existing fish and wildlife habitats.

#### ***Environmental Consequences:***

There are 404 RR-10 tax lots, one acre or larger with a single-family dwelling and 247 that are vacant that abut the Little Deschutes River or Deschutes River. There are 479 tax lots one acre or larger that are split-zoned RR-10 or MUA-10 with the Flood Plain Zone that contain a single-family dwelling and 291 that are vacant. These properties contain a Goal 5 Riparian Area which is also the habitat for Goal 5 inventoried waterfowl, upland game bird, furbearers, and fish. The WA Combining Zone contains Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. By prohibiting RVs and maintaining the status quo, these species will continue to be protected against habitat fragmentation and distress from second dwellings. The environmental consequences are therefore neutral.

#### ***Energy Consequences:***

Energy consumption would have neutral consequences as this scenario maintains the status quo. Development associated with RVs may be displaced to other areas of rural Deschutes County, which could still have demands on utilities.

### **Scenario (C) Limit the Conflicting Use**

In this scenario, Deschutes County would allow RVs as rental dwellings in the MUA-10 and RR-10 zones, with additional limitations to protect the inventoried resources, outside of existing protections. For example, a limitation could require the RV to be within a certain distance of the existing dwelling.

#### ***Economic Consequences:***

Permitting RVs as rental dwellings would have positive consequences by allowing a second dwelling on a property. Deschutes County is experiencing a housing shortage. Allowing RVs, which are generally small in size and cannot be used as vacation rentals, could help address work force housing shortages in the region. It could reduce commuting costs for those workers that live in adjoining Crook, Jefferson and Klamath counties and coupled with other work force housing strategies, attract businesses and employment opportunities in Central Oregon.

Compared to scenario (a) where there is no required area in relation to the primary residence in which the RV must be sited, the addition of limitations could lessen the impact by minimizing the buildable footprint and ultimately, the number of eligible properties, recognizing that some may not have enough area to accommodate an RV depending on site constraints. This could positively impact the hunting and wildlife viewing economy in Central Oregon, valued at \$50 million annually. While such measures could lessen impacts, the overall burden caused by allowing RVs nevertheless may still overall impact wildlife and thereby impact revenue generated from the recreation economy.

In comparison to scenario (a), which would allow the use outright, Deschutes County finds that this scenario would provide a limitation to reduce the amount of impacts, even if those impacts still exist.

#### ***Social Consequences:***

The positive social consequences in this scenario are very similar to scenario (a). Permitting RVs could have positive consequences by allowing property owners with an existing single-family dwelling to have a dwelling that accommodates aging parents or family members, farm help for those that are working on MUA-10 zoned agricultural properties or nearby Exclusive Farm Use zoned properties. By providing affordable housing, it could help lift people out of poverty and increase economic mobility. It could bring a positive impact on the surrounding community, encouraging social connections and lowering crime rates.

Adding a limitation requiring the RV to be within a certain distance of the existing dwelling (or other limitation) could establish a negative consequence, depending on siting, of RVs in rural areas with inadequate access to employment, schools, food markets, medical facilities and parks. This could lead to higher automobile dependence and vehicle emissions caused by more people driving to and from rural areas. Based on previous testimony from ODFW, there could also be negative impacts due to the potential loss of wildlife habitat stemming from the possible removal of habitat areas and construction of structures and their associated human presence. Many residents, advocacy

organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region's rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, incrementally, Deschutes County's rural character and quality of life. The proposed amendments could have negative consequences due to increased human presence and infrastructure near or within the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

***Environmental Consequences:***

RVs as rental dwellings could present negative consequences as they have the potential to increase activity, noise, and light near fish and wildlife habitats, and in turn cause distress to inventoried Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat.

Siting of an RV may require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by fish and wildlife species, outside of their primary habitat. Given the relatively small footprint of RVs, however, these impacts may be minor compared to other development types. Permitting RVs could result in further negative impacts to the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Based on recent testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range.

Existing protections in place today (discussed above) would prevent Goal 5 riparian areas from being developed when RVs are nearby. The establishment of RVs in these areas would likely be neutral.

By limiting the RV to within a certain distance of the existing dwelling, the negative environmental consequences associated with RVs could be mitigated to a certain extent.

***Energy Consequences:***

The energy consequences in this scenario are the same as in scenario (a). Limiting the RV to within a certain distance of the existing dwelling could decrease the amount of energy used to operate the RV, considering the essential services that are required to be provided.

## Chapter 6: ESEE Decision

**660-023-0040(5): Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:**

**(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.**

The graphic below is meant to be a simplified representation to balance each of the ESEE factors. As stated in the ESEE analysis, there are a variety of positive, negative, and neutral consequences associated with each scenario. Deschutes County finds that the issue of allowing an RV as rental dwellings in MUA-10 and RR-10 zones are both a social and economic issue that outweighs the other ESEE consequences. The County considered allowing the use with limitations by limiting the siting of the RV to within a certain distance of the existing dwelling, but this practice could limit the number of affordable housing opportunities. Therefore, the County is choosing scenario (a), which will allow the use fully, notwithstanding the possible impacts on the resource sites.

**Table 5: ESEE Factors**

<b>ESEE Factors</b>	<b>Support habitat functions (Environmental, economic, social)</b>	<b>Support Affordable Housing (Social, economic)</b>	<b>Support Recreational Economy (Economic, Social)</b>	<b>Preserves Rural Character (Social, economic)</b>	<b>Transportation (Energy)</b>
<b>Prohibit conflicting use</b> (No code change)	<b>0</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Allow conflicting use</b> Allow RVs with no additional requirements	<b>-</b>	<b>+</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Limit conflicting use</b> Allow RVs with additional limitation	<b>-</b>	<b>+</b>	<b>-</b>	<b>-</b>	<b>-</b>

## Chapter 7: Program to Achieve Goal 5

***660-023-0050(1): For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).***

***660-023-0050(2): When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:***  
***(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;***  
***(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or ...***

Deschutes County has determined that allowing RVs as rental dwellings within the MUA-10 and RR-10 zones and within the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat should be allowed fully, notwithstanding the possible impacts on the inventoried resources. The implementing measures do not include alternative, discretionary procedures for compliance.

**Attachment 1 - Deschutes County Significant Goal 5 Resources**

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Fish Habitat</b> (Inventory – Ord. No. 92-041, page 18; creeks, rivers and lakes)</p>	<p align="center"><b>Yes</b></p>	<p>Major conflicts are removal of riparian vegetation, fill and removal activities within the bed and banks of streams or wetlands, hydroelectric, rural residential development and water regulation</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve fish habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, 100’ setback from OHW, conservation easements and restrictions on boats and docks.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p><b>Deer Winter Range</b> (Inventory – Ord. No. 92-041, page 22; Metolius, Tumalo, North Paulina, and Grizzly ranges identified by ODFW)</p>	<p align="center"><b>Yes</b></p>	<p>Major conflicts are dwellings, roads, and dogs. Activities which cause deterioration of forage quality and quantity or cover are conflicting uses. Fences which impede safe passage are also a conflicting use.</p>	<p>Floodplain zone recognized as a program to achieve the goal to protect deer winter range (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include Wildlife Area Combining Zone. Requires 40-acre minimum lot size for all new residential land divisions. Underlying zoning in most of the deer winter range is: EFU, Forest, and Floodplain. These zones provide for large lot sizes and limit uses that are not compatible with farm or forest zones.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>Deer Migration Corridor</b> (Inventory – Ord. No. 92-041, page 26; Bend-La Pine migration corridor identified by ODFW)</p>	<p align="center"><b>Yes</b></p>	<p>Major conflicts are dwellings, roads, and dogs. Fences which impede safe passage are also a conflicting use.</p>	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the deer migration corridor. Underlying zoning is RR-10. It was amended to require cluster development for all land divisions in the RR-10 zone in the Bend/La Pine migration corridor (92-042). A 20-acre parcel is the minimum size required for a cluster development. Siting and fencing standards also apply in the deer migration corridor. Migration corridor includes some EFU, Forest, and Floodplain zoned land. These resource zones provide for large lot sizes and limit uses that are not compatible with farm or forest zones.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Elk Habitat</b> (Inventory – Ord. No. 92-041 – page 32; identified by USFS and ODFW)</p>	<p><b>Yes</b></p>	<p>Major conflict is the loss of habitat due to increased residential densities in the habitat areas. Increased human disturbance can cause conflict with elk. The use of land which necessitates the removal of large amounts of vegetative cover can also alter the quality of elk habitat.</p>	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the elk habitat.</p> <p>It was amended to require a 160-acre minimum lot size for areas identified as significant elk habitat. Siting standards are required to minimize conflicts of residences with habitat protection.</p> <p>Underlying zoning in the elk habitat areas is either Floodplain, Forest, or Open Space and Conservation. These resource zones restrict high density residential development and prohibit industrial and commercial uses.</p> <p>* Some lands are zoned RR10, including lots that are split zoned with flood plain. They are already parcelized, preventing future land divisions.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>Antelope Habitat</b> (Inventory – Ord. No. 92-041 – page 38; identified by ODFW)</p>	<p><b>No</b></p>	<p>Land use or development activities which would result in the loss of habitat, and animal harassment and disturbance associated with human activity.</p>	<p>To achieve the goal to conserve antelope habitat, uses conflicting with antelope habitat are limited to the Wildlife Area Combining Zone. In antelope range, the minimum lot size is 320 acres. Except for rural service centers, the antelope habitat is zoned EFU or F1.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>
<p><b>Habitat for Sensitive Birds</b> (Inventory – Ord. No. 92-041 – page 41 and Table 5; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases).</p> <p>The area required for each nest site varies between species.</p>	<p><b>No</b></p>	<p>Nest sites are found in Forest, EFU and Open Space and Conservation zones. Uses that could conflict with the habitat site are surface mining, residential use, recreation facilities, roads, logging, and air strips.</p> <p>Any activity which would disturb the nesting birds, including intensive recreational use or removal of trees or</p>	<p>The Sensitive Bird and Mammal Combining Zone achieves the goal to protect sensitive bird sites.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
		vegetation could conflict with the habitat site.		
<p><b>(UPDATE -</b> Inventory – Ord. No. 94-004 –pages 3 to 140 Site specific ESEE analysis and decisions follow each site.</p>	<b>No</b>	See above.	<p>Habitat areas for sensitive birds of the Fish and Wildlife Element, adopted in No. 92-041 is repealed and replaced by inventories in Exhibit 1. Area required around each nest site needed to protect the nest from conflict varies between species. It’s called “sensitive habitat area.”</p> <p>Note: Northern bald eagle, osprey, golden eagle, prairie falcon, and great blue heron rookeries are located on federal land. Classified as “2A” Goal 5 Resources. Great Grey owl site no longer exists. Some bald eagle, golden eagle sites are controlled by the Sensitive Bird and Mammal Combining Zone.</p>	Ordinance Nos. 94-004, 94-005 and 94-021
<p><b>Waterfowl Habitat</b> (Inventory – Ord. No. 92-041 – page 56; includes all rivers, streams, lakes and perennial wetlands and ponds identified on the 1990 US Fish and Wildlife Wetland Inventory Maps; ODFW provided lists of all bird species; Co/City of Bend River Study provides additional information)</p>	<b>Yes</b>	<p>Future resort and vacation home development, human activity associated with recreation along rivers and lakes, timber-cutting around sensitive habitats, fill and removal of material in wetlands and within the bed and banks of rivers and streams, and removal of riparian vegetation are conflicting uses.</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve waterfowl habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, rimrock setbacks, 100’ setback from OHW, conservation easements, restrictions on boats and docks, landscape management, state and federal scenic water regulations. In addition, the Forest and EFU zones require large minimum lot size which limits the potential density of development in the areas adjacent to many of the rivers, streams, wetlands, and ponds used for waterfowl habitat.</p>	Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042- 92-045, 92-046

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Upland Game Bird Habitat</b> (Inventory – Ord. No. 92-041 – page 60; ODFW did not identify critical habitat for any of the upland game species except for the sage grouse; habitat for upland game birds is dispersed throughout the county in riparian, forest, agricultural, and rangeland areas)</p>	<p><b>Yes</b></p>	<p>Pheasant and quail are affected whenever agricultural land is taken out of production through urban sprawl, road construction, industrial development and other land clearing activities.</p> <p>Farming practices on existing agricultural lands also have an impact. Fence row, woodlots, and riparian vegetation are constantly being removed at the expense of upland bird use.</p> <p>Chapter 6 of County/City of Bend River Study identifies conflicting uses with upland bird habitat.</p>	<p>For all of the upland game birds except sage grouse, the habitat is adequately protected by the existing EFU and Forest zoning and the provisions to protect wetlands and riparian areas to achieve the goal of protecting upland game birds.</p> <p>County provisions to protect riparian areas and wetlands protect one of the most significant components of upland game habitat.</p> <p>Note: conflicts with sage grouse are limited by EFU zoning with a 320 acre minimum parcel size. Sensitive Bird and Mammal Combining Zone pertaining to sage grouse and leks have been repealed due to LCDC enacted rules in OAR 660, Division 23.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>UPDATE</b> - Inventory – Ord. No. 94-004 – pages 156-201.</p>	<p><b>Yes</b></p>	<p>See above.</p>	<p>Habitat areas for Upland Game Bird Habitat, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 4 with the ESEE Analysis and inventory for upland game bird habitat.</p> <p>Conflicts with sage grouse are reduced by the limitations on uses in the EFU and Floodplain zone, by the 320 acre minimum lot size and predominance of BLM lands.</p> <p>Note: conflicts with sage grouse are limited by EFU zoning with a 320 acre minimum parcel size. Sensitive Bird and Mammal Combining Zone pertaining to sage grouse and leks have been repealed due to LCDC enacted rules in OAR 660, Division 23.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Furbearer Habitat</b> (Inventory – Ord. No. 92-041 – page 65; ODFW has not identified any specific habitat sites other than riparian and wetland areas that are critical for the listed species.</p>	<p><b>Yes</b></p>	<p>The conflicting uses are those activities or development which would degrade or destroy habitat, or disturb the animals causing them to relocate.</p> <p>Conflicts between furbearers and other land uses are minimal in the county.</p>	<p>Furbearer habitat is adequately protected by the existing EFU and Forest zoning and the provisions to protect farm use and forest zoning, and the provisions to protect wetlands and riparian areas to achieve the goal to protect furbearers.</p> <p>The farm and forest zones require large minimum lot sizes and many uses are permitted only as conditional uses. The measures to protect riparian and wetland habitat are detailed in this plan in the Riparian and Wetland Habitat section.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p><b>Habitat Areas for Townsend’s Big-Eared Bats</b> (Inventory – Ord. No. 92-041 – page 69; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases)</p>	<p><b>No</b></p>	<p>Caves located in EFU zones. Uses permitted in those zones that could conflict with the habitat site are surface mining, recreation facilities including golf courses and destination resorts, roads, logging, and air strips.</p>	<p>Program to achieve the goal is Sensitive Bird and Mammal Combining Zone</p>	<p>Ordinance No. 92-041 and 042</p>
<p><b>UPDATE</b> - Inventory – Ord. No. 94-004 – pages 140 to 155 Site specific ESEE analysis and decisions follow each site.</p>	<p><b>No</b></p>	<p>See above.</p>	<p>Habitat areas for Townsend Bats, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 2. The ESEE for Townsend’s big-eared bats is amended for additional bat sites in Exhibit 3.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Wetlands and Riparian Areas</b> (Inventory – Ord. No. 92-041 – page 73; identified on USFWS NWI)</p>	<p><b>Yes</b></p>	<p>Conflicting uses include fill and removal of material, including vegetation which could cause a reduction in the size or quality or function of a wetland, or cause destruction or degradation of the riparian habitat and vegetation.</p> <p>Structural development in wetlands or riparian areas would reduce the habitat and the use of the structure could cause conflicts such as harassment or disturbance or wildlife dependent on the habitat. Cutting of riparian vegetation can remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species, and can increase the potential for erosion or bank instability in riparian areas.</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve wetland and riparian habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, 100’ setback from OHW, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>UPDATE – Riparian inventory</b> – Ord. No. 94-007; Significant riparian habitat is located in three areas:</p> <p>Area within 100' of OHW of an inventoried stream or river;</p> <p>Area adjacent to an inventoried river or stream and located within a flood plain mapped by FEMA and zoned Floodplain by the county (Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Indian Ford Creek, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River</p> <p>Area adjacent to a river or stream and inventoried as a wetland on the NWI</p>	<p><b>Yes</b></p>	<p>Conflicting uses:</p> <p>Locating septic systems in riparian area could cause pollution of ground and surface water systems. The potential for this conflict depends on the characteristics of the soil.</p> <p>Locating structural development in riparian areas can reduce the habitat and the use of structures could cause conflicts such as harassment or disturbance of wildlife dependent on habitat.</p> <p>Recreational use of the riparian area including boat landing areas, formal and informal trails, and camping areas can alter soil composition and cause destruction of vegetation.</p> <p>Increase in density of residential lots in or adjacent to riparian areas could result in a decrease of habitat effectiveness because of disturbance to wildlife.</p>	<p>Riparian Areas inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit A.</p> <p>New parcels meeting the minimum lot size in the resource zones (EFU, Forest, non-exception flood plain) will not cause an increase in residential density that would conflict with riparian habitat values.</p> <p>In RR10, MUA-10, and Floodplain zones found adjacent to inventoried riparian areas, the creation of new 10 acre parcels would not significantly increase the overall density of residential use adjacent to riparian areas because the areas where new parcels could be created, with the exception of Tumalo Creek, are already divided into lots considerably smaller than 10 acres.</p> <p>Program to achieve Goal 5 for Riparian Habitat: fill and removal regulations to protect wetlands, 100' setback from OHW, Floodplain zone (regulates docks too), Landscape Management zone, Conservation easements, State Scenic Waterway</p>	<p>Ordinance Nos. 94-007</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>UPDATE – Wetland Inventory</b> – Ord. No. 94-007, Exhibit B – inventory is NWI (Ord. No. 92-045)</p>	<p><b>Yes</b></p>	<p>Conflicting uses include fill and removal of material, including vegetation, which could cause reduction in the size, quality or function of a wetland.</p> <p>Locating structural development in wetlands could reduce the habitat and the use of the structure could cause conflicts such as harassment or disturbance of wildlife dependent on the habitat.</p> <p>Draining wetlands for agriculture or other development purposes destroys the hydrological function of the wetland and alters the habitat qualities that certain wildlife depend on.</p> <p>Cutting wetland vegetation adjacent to streams can remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species, and can also increase the potential for erosion or bank instability in riparian areas.</p>	<p>Wetlands Inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit B, Wetlands.</p> <p>Program to achieve Goal 5 for Wetland Habitat:</p> <ul style="list-style-type: none"> <li>• Fill and removal regulations to protect wetlands</li> <li>• 100’ setback from OHW</li> <li>• Flood plain zone (regulates docks too)</li> <li>• DSL Removal / Fill law</li> </ul>	<p>Ordinance Nos. 94-007</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Ecologically and Scientifically Significant Natural Areas * Little Deschutes River / Deschutes River Confluence</b>  (Inventory – Ord. No. 92-052, Exhibit B, Page 1; identified by Oregon Natural Heritage Program); Analysis of Pringle Falls and Horse Ridge Research Areas, West Hampton Butte and Davis Lakes excluded b/c they're on federal land and/or not related to flood plains.</p>	<p><b>Yes</b></p>	<p>Resort and vacation home development, recreational uses, livestock grazing, and fill and removal in wetlands are conflicting uses.</p>	<p>Programs for resource protection include the zoning of the property, the provisions of the flood plain, wetlands and the river corridor.</p> <p>The implementing measures which protect and regulate development in the confluence area are: EFU zoning, Floodplain zoning, conservation easements, and fill and removal permits.</p> <p>The confluence area is located in the undeveloped open space area of the Sunriver development (Crosswater). 80% of the property is retained as open space.</p> <p>Today, zoning is Floodplain and Forest Use.</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>
<p><b>Landscape Management Rivers and Streams</b>  (Inventory – Ord. No. 92-052, Exhibit C, Page 3; identified by state and federal wild and scenic corridors; and within 660' of OHW of portions of Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Spring river, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River not on the state or federal scenic designations)</p>	<p><b>Yes</b></p>	<p>Uses conflicting with open space and scenic resources along the designated Landscape Management rivers and streams include land management activities that result in habitat loss or development within river or stream corridors which would excessively interfere with the scenic or natural appearance of the landscape as seen from the river or stream or alteration of existing natural landscape by removal of vegetative cover.</p>	<p>Program for resource protection includes: Floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Lakes and Reservoirs</b> (Inventory – Ord. No. 92-052, Exhibit C, Page 10; includes Upper Tumalo Reservoir; remaining are on federal land)</p>	<p><b>No</b></p>	<p>Conflicting uses with the open space and scenic values of the land adjacent to the inventoried lakes include development which would cause a loss of open space or a decrease in the aesthetic and scenic resources, and land management activities resulting in the removal of natural vegetation which provides wildlife habitat and scenic value.</p>	<p>Conflicting uses around Tumalo Reservoir are specifically limited by Title 18.48, Open Space Conservation Zone and a 100’ setback for any structure from OHW.</p>	<p>Ordinance No. 91-020</p>
<p><b>State Scenic Waterways and Federal Wild and Scenic Rivers</b> (Inventory – Ord. No. 92-052, Exhibit E, Page 1;</p>	<p><b>Yes</b></p>	<p>See County / City of Bend River Study and 1986 River Study Staff Report. Both referenced in Ord. 92-005, Exhibit E.</p>	<p>Program for resource protection includes: Floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>
<p><b>Wilderness Areas, Areas of Special Concern, Energy Sources (Ord. No 92-052), and Groundwater Resources (Ord. No. 94-003)</b> not analyzed because they’re on federal land or don’t relate to flood plains.</p>	<p><b>No</b></p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

**Attachment 2 - Inventory Site Maps**



1" = 10,000'

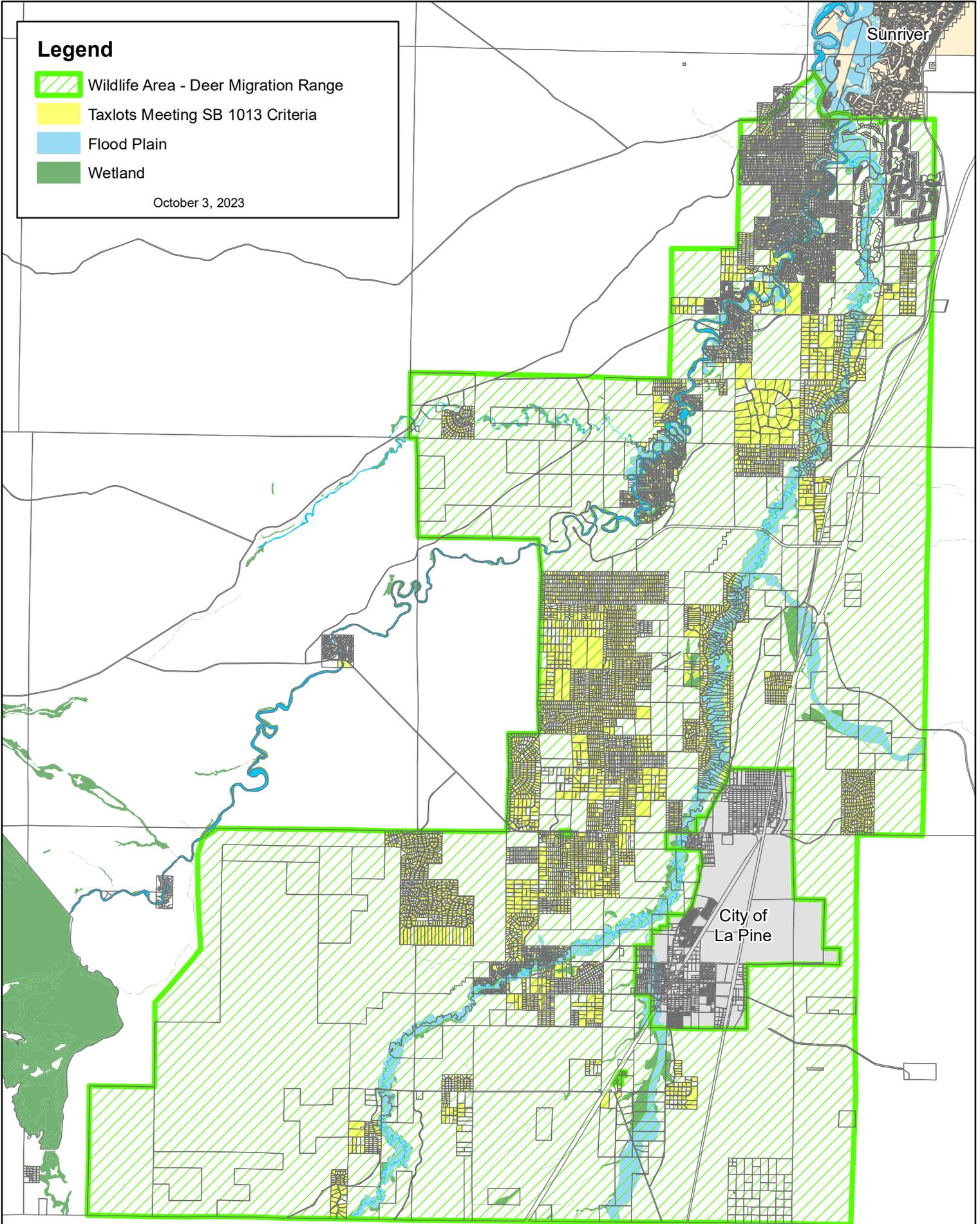
# Taxlots Meeting SB 1013 Criteria - Deer Migration Range



**Legend**

-  Wildlife Area - Deer Migration Range
-  Taxlots Meeting SB 1013 Criteria
-  Flood Plain
-  Wetland

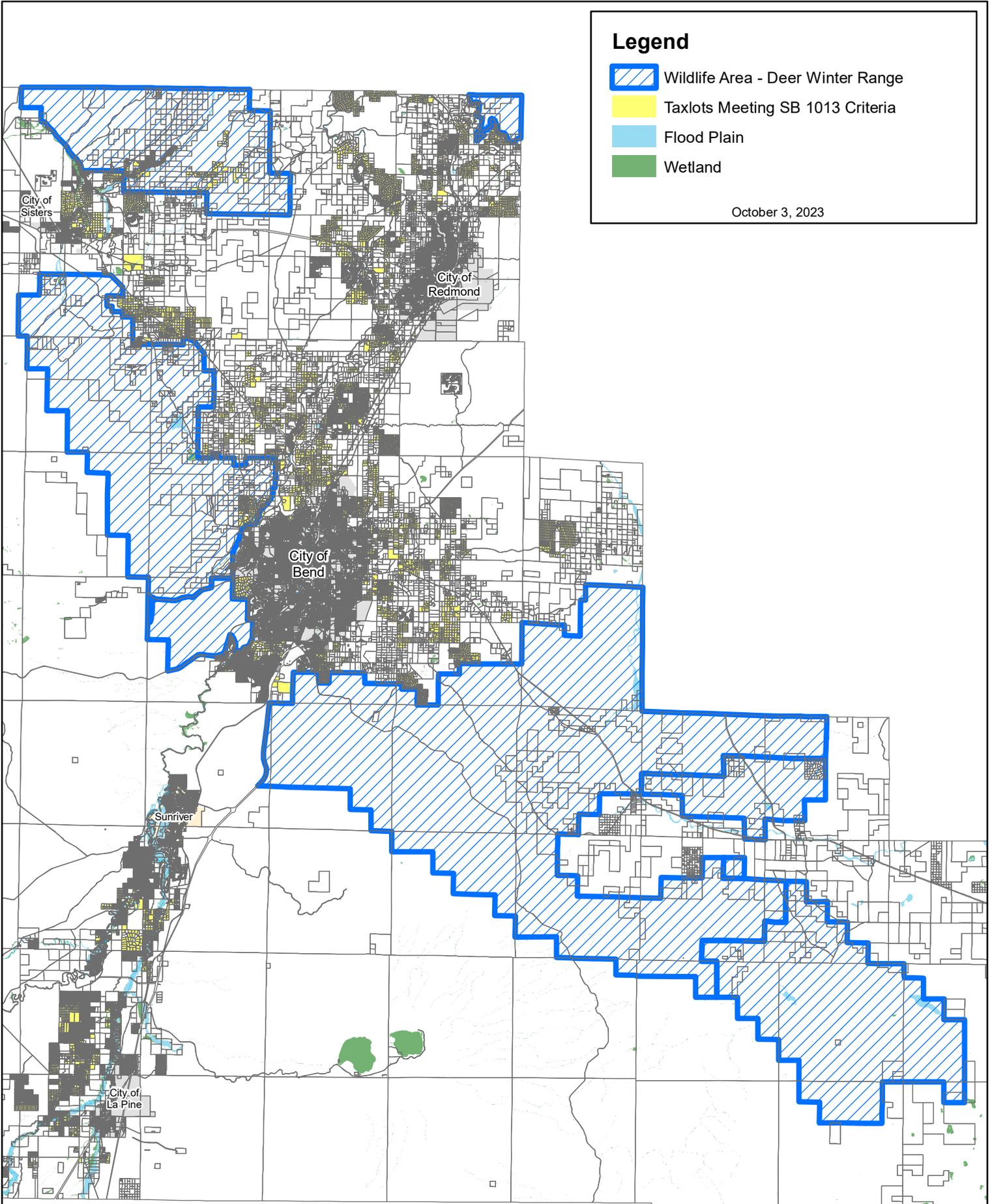
October 3, 2023





1" = 6 mi.

# Taxlots Meeting SB 1013 Criteria - Deer Winter Range



## Legend

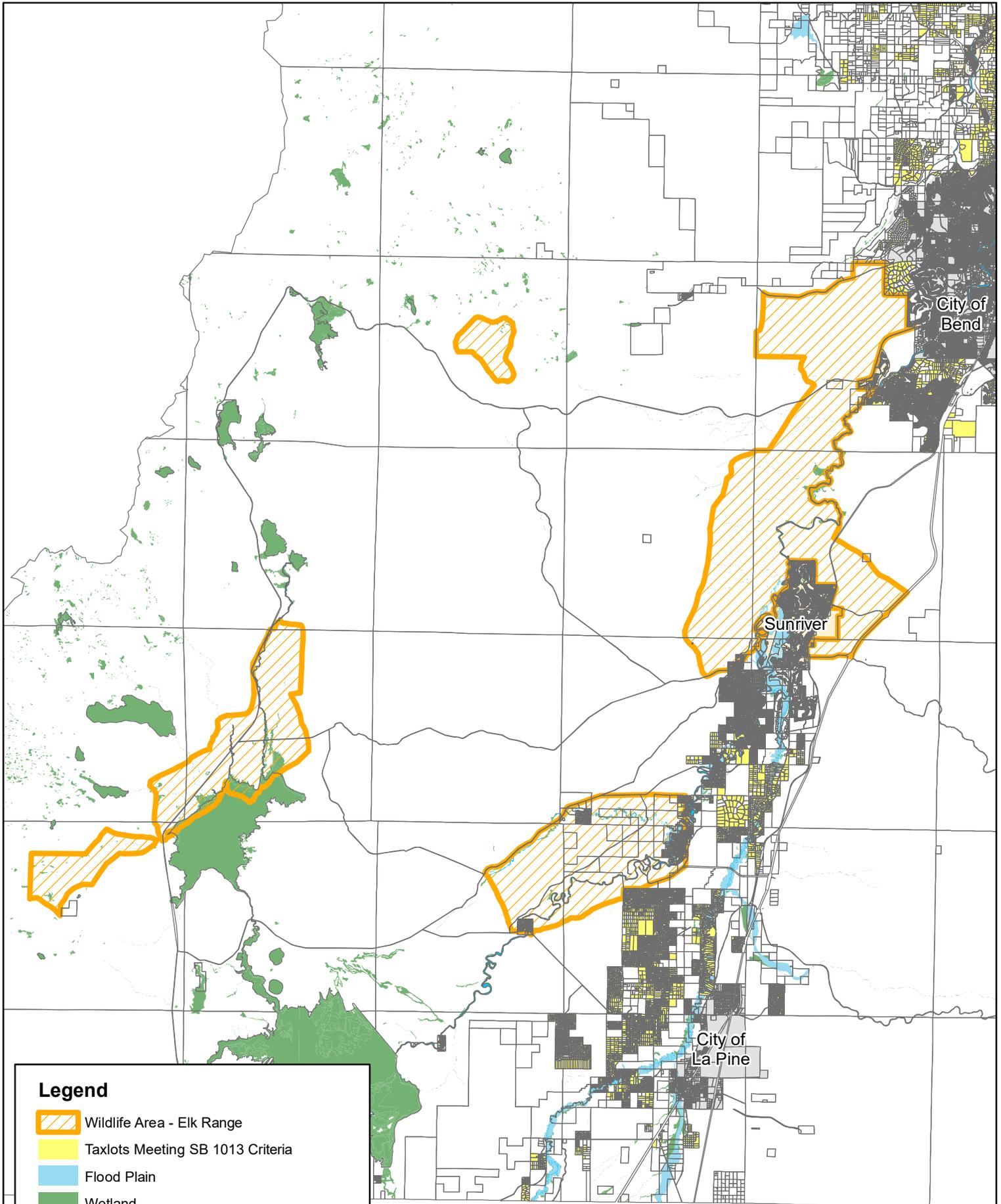
-  Wildlife Area - Deer Winter Range
-  Taxlots Meeting SB 1013 Criteria
-  Flood Plain
-  Wetland

October 3, 2023



1" = 4 mi.

# Taxlots Meeting SB 1013 Criteria - Elk Range



## Legend

-  Wildlife Area - Elk Range
-  Taxlots Meeting SB 1013 Criteria
-  Flood Plain
-  Wetland

October 3, 2023

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