

REVIEWED  

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LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

“An Ordinance Amending Deschutes County Code Title 22, Procedures Ordinance, to Provide Clarification of Existing Regulations, Procedures, and Policies.” \*  
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ORDINANCE NO. 2021-014

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File Nos. 247-21-000862-TA) to the Deschutes County Code (“DCC”), Chapter 22.32 – Appeals; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed amendments on November 18, 2021, and subsequently forwarded a recommendation of Approval to the Deschutes County Board of County Commissioners (“Board”); and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 15, 2021, and concluded that the public will benefit from the proposed changes to Deschutes County Code Chapter Title 22;

NOW, THEREFORE,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. Deschutes County Code Chapter 22.32, Appeals, is amended to read as described in Exhibit “A”, attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in strikethrough.

Section 2. FINDINGS. The Board adopts as its findings Exhibit “B”, attached and incorporated by reference herein.

Section 3. EMERGENCY. This Ordinance being necessary to ensure consistency with new operating hours for the Community Development Department (CDD) office, an emergency is declared to exist, and this Ordinance becomes effective January 3, 2022 after adoption.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2021

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

\_\_\_\_\_  
PHILIP CHANG, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PATTI ADAIR

Date of 1<sup>st</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Date of 2<sup>nd</sup> Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	___	___	___	___
Philip Chang	___	___	___	___
Patti Adair	___	___	___	___

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2021.

## **CHAPTER 22.32 APPEALS**

### **22.32.015 Filing Appeals**

#### **22.32.015 Filing Appeals**

- A. To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Planning Division and an appeal fee.
- B. Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the Deschutes County Community Development Department no later than 54:00 PM on the twelfth day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 54:00 PM on the twelfth day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.
- C. If the Board of County Commissioners is the Hearings Body and the Board declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the County in reviewing the appeal. When the Board declines review and the decision is subsequently appealed to LUBA, the appeal fee may be applied toward the cost of preparing a transcript of the lower Hearings Body's decision.
- D. The appeal fee shall be paid by method that is acceptable to Deschutes County.

#### HISTORY

*Repealed & Reenacted by Ord. [82-011](#) on 8/9/1982*

*Repealed & Reenacted by Ord. [90-007 §1](#) on 12/7/1990*

*Amended by Ord. [92-013 §11](#) on 2/27/1991*

*Amended by Ord. [94-042 §2](#) on 8/3/1994*

*Amended by Ord. [95-045 §32](#) on 6/28/1995*

*Amended by Ord. [96-071 §1G](#) on 12/30/1996*

*Amended by Ord. [98-019 §2](#) on 3/11/1998*

*Amended by Ord. [99-031 §15](#) on 10/27/1999*

*Amended by Ord. [2015-017 §3](#) on 3/28/2016*

*Amended by Ord. [2018-012 §6](#) on 11/23/2018*

*Repealed & Reenacted by Ord. [2019-012 §1.2](#) on 12/2/2019*

*[Amended by Ord. 2021-014 §1 on XX/XX/2021](#)*



## FINDINGS

### HOUSEKEEPING TEXT AMENDMENTS

#### I. **APPLICABLE CRITERIA:**

Title 22, Deschutes County Development Procedures Ordinance

#### II. **BACKGROUND:**

The Planning Division regularly amends Deschutes County Code (DCC) and the Comprehensive Plan to correct minor errors identified by staff, other County departments, and the public. This process, commonly referred to as housekeeping, also incorporates updates from rulemaking at the state level through amendments to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR), and allows for less substantive code changes to continue efficient County operations.

The last time Deschutes County adopted housekeeping amendments occurred in July 2020.<sup>1</sup>

#### III. **BASIC FINDINGS:**

The Planning Division determined minor changes were necessary to clarify existing standards and procedural requirements, include less substantive code alterations, incorporate changes to state law, and correct errors found in various sections of the Deschutes County Code (DCC). Staff initiated the proposed changes and notified the Oregon Department of Land Conservation and Development on September 23, 2021 (File no. 247-21-000862-TA). As demonstrated in the findings below, the amendments remain consistent with Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

#### IV. **FINDINGS:**

##### **CHAPTER 22.12, LEGISLATIVE PROCEDURES**

Section 22.12.010.

***Hearing Required***

***No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the***

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<sup>1</sup> Ordinance 2020-007.

***Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.***

**FINDING:** This criterion is met because a public hearing was held before the Deschutes County Planning Commission on November 18, 2021 and before the Board of County Commissioners (Board) on December 15, 2021.

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 is met as notice was published in *The Bulletin* newspaper on September 29, 2021 for the Planning Commission public hearing and November 30, 2021 for the Board 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:** This criterion is met as notice was posted on the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend, as well as on the Planning Division website.

***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:** The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

***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 has been 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, and has received a fee waiver. This criterion has been 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:** This criterion is met as the Planning Commission held a public hearing on November 18, 2021. The Planning Commission recommended approval of the proposed amendments unanimously. The Board held their own public hearing on December 15, 2021.

Section 22.12.050 Final Decision

**All legislative changes shall be adopted by ordinance**

**FINDING:** The proposed legislative changes included in file no. 247-21-000862-TA will be implemented by ordinances upon approval and adoption by the Board.

**V. PROPOSED TEXT AMENDMENTS:**

The proposed text amendments are detailed in the referenced ordinance with additional text identified by underline and deleted text by ~~striketrough~~. Below are summary explanations of the proposed changes.

**Chapter 22.32. APPEALS - (See Exhibit A)**

**Section 22.32.015. Filing Appeals**

To provide effective customer service, the Board of County Commissioners have augmented the visitor hours for the main Community Development Department (CDD) office at 117 NW Lafayette Ave, Bend. Beginning December 1<sup>st</sup>, 2021, the main CDD office will close to visitors starting at 4:00 PM rather than 5:00 PM. The proposed amendment alters DCC 22.32.015(B) to accommodate the appeals process and notify applicants of their obligations when filing a formal appeal. After implementation of the subject amendment, applicants will be required to file any appeals by 4:00 PM on the twelfth day following mailing of the decision or on the twelfth day following mailing of a modified decision.

**VI. CONCLUSION:**

Based on the information provided herein, staff recommends the Board of County Commissioners approve the proposed text amendments that make minor changes necessary to clarify existing standards and procedural requirements, incorporate changes to state law, and to correct errors in the Deschutes County Code.