



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/27/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 008-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, May 10, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Nick Lelack, Deschutes County
Jon Jinings, DLCD Community Services Specialist
Karen Swirsky, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA/I



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE STAMP

DEPT OF

APR 20 2012

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: DESCHUTES COUNTY

Local file number: TA-11-3

Date of Adoption: APRIL 16, 2012

Date Mailed: APRIL 18, 2012

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11-17-11

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Chapter 18.16 of Title 18 of the Deschutes County Code to allow for Agri-Tourism and Other Commercial Events and Activities in the Exclusive Farm Use Zone, and amend the Winery standards under House Bill 3280.

Does the Adoption differ from proposal? Please select one

Some changes were necessary based on public input and Deschutes County Planning Commission and Board of County Commissioners hearings testimony. Staff does not believe there were any significant substantive changes to the original proposal.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 008-11 (19017) [17012]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Department of Land Conservation and Development
Oregon Department of Agriculture
Oregon Department of Environmental Quality

Local Contact: Nick Lelack, Planning Director Phone: (541) 385-1708 Extension:
Address: 117 NW Lafayette Fax Number: 541-385-1764
City: Bend, OR Zip: 97701 E-mail Address: nick.lelack@deschutes.org

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

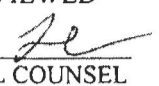
1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18 of the Deschutes County Code, to Establish Provisions for Agri-Tourism and Other Commercial Events and Activities, and to Amend the Winery Standards in the Exclusive Farm Use Zone , and Declaring an Emergency. *
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*
ORDINANCE NO. 2012-004

WHEREAS, the Deschutes County Community Development Department initiated the amendment (Planning Division File No. TA-11-3) of the Deschutes County Code (“DCC”) Title 18, Chapter 18.16, to incorporate the changes to State Law under 2011 Senate Bill 960 for Agri-Tourism and Other Commercial Events and Activities and House Bill 3280 for Winery standards; and

WHEREAS, the Deschutes County Planning Commission held a public hearing on December 8, 2011 and forwarded to the Deschutes County Board of Commissioners (“Board”) a recommendation of approval; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on March 14, 2012 and concluded that the public will benefit from the proposed changes to DCC Title 18 Chapter 18.16; now, therefore,

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

Section 1. AMENDMENT. DCC Chapter 18.04, TITLE, PURPOSE AND DEFINITIONS, 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. AMENDMENT. DCC Chapter 18.16, EXCLUSIVE FARM USE ZONES, is amended to read as described in Exhibit “B,” attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 3. FINDINGS. The Board adopts as its findings Exhibit “B,” attached and incorporated by reference herein.

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Section 4. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

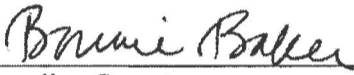
Dated this 16th of April, 2012

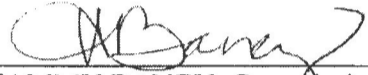
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


ANTHONY DEBONE, Chair


ALAN UNGER, Vice Chair

ATTEST:


Recording Secretary


TAMMY BANEY, Commissioner

Date of 1st Reading: 16th day of April, 2012.

Date of 2nd Reading: 16th day of April, 2012.

Commissioner	Record of Adoption Vote:			
	Yes	No	Abstained	Excused
Anthony DeBone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 16th day of April, 2012.

“****” Denotes portions of the code not amended by Ordinance 2012-004.

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.010. Title.

18.04.020. Purpose.

18.04.030. Definitions.

“****” Denotes sections of the Deschutes County Code not amended by Ordinance 2011-XXX.

“Agri-tourism” means a commercial enterprise at a working farm or ranch that is incidental and subordinate to the existing farm use of the tract that promotes successful agriculture, generates supplemental income for the owner and complies with Oregon Statue and Rule. Any assembly of persons shall be for the purpose of taking part in agriculturally based operations or activities such as animal or crop care, picking fruits or vegetables, cooking or cleaning farm products, tasting farm products; or learning about farm or ranch operations. Agri-tourism does not include “commercial events or activities.” Celebratory gatherings, weddings, parties, or similar uses are not agri-tourism.

“Agricultural Land” means lands classified by the U. S. Soil Conservation Service (SCS) as predominately Class I-VI soils, and other lands in different soil classes which are suitable for farm use, taking into consideration soil fertility, suitability for grazing and cropping, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural lands in any event.

“Agricultural structure” means any structure considered to be an “agricultural building” under the State Building Code (Section 326) as referenced in DCC 15.04.010 and is (1) located on a parcel that is at least 20 acres in size and contains at least 8.5 irrigated acres, or (2) a parcel that is at least 80 acres in size, regardless of irrigation.

“Agricultural use” means any use of land, whether for profit or not, related to raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof not specifically covered elsewhere in the applicable zone. Agricultural use includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. Agricultural use also includes the propagation, cultivation, maintenance and harvesting of aquatic species. Agricultural use does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees.

“Commercial agricultural enterprise” means farm operations which will:

- A. Contribute in a substantial way to the area's existing agricultural economy; and
- B. Help maintain agricultural processors and established farm markets. When determining whether a farm is part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

"Commercial amusement establishment" means a facility supplying refreshments and various forms of entertainment to the general public.

"Commercial event or activity" means any meeting, celebratory gathering, wedding, party, or similar uses consisting of any assembly of persons and the sale of goods or services. It does not include agri-tourism. In DCC 18.16.042, a commercial event or activity shall be related to and supportive of agriculture.

"Commercial farm" as used in DCC 18.16 means those land tracts shown on the 1991 Assessor's records as contiguous ownership tracts under one name (or separated only by a road), zoned EFU, receiving special assessment for farm use and in the top 90 percent of assessed farm use values (arranged in ascending order). These farms are identified in the resource element of the comprehensive plan.

"Commercial forest land" means land which is used for the growing and harvesting of forest tree species.

"Commercial residential use" means a building, portion of a building or group of buildings designed or used for human occupancy or lodging for which a fee is charged, such as a hotel, motel or tourist camp, but excluding quarters intended for permanent occupancy such as a duplex or apartment. A manufactured home park is not included in this definition.

"Commercial use" means the use of land primarily for the retail sale of products or services, including offices. It does not include factories, warehouses, freight terminals or wholesale distribution centers.

"Community center" means a community meeting, retreat and activity facility serving the social or recreational needs of community residents or visitors.

“****” Denotes portions of the code not amended by Ordinance 2012-004.

Chapter 18.16. EXCLUSIVE FARM USE ZONES

- 18.16.010. Purpose.
- 18.16.020. Uses Permitted Outright.
- 18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 and a Review Under DCC Chapter 18.124 For Items C Through M.
- 18.16.030. Conditional Uses Permitted - High Value and Nonhigh Value Farmland.
- 18.16.031. Nonresidential Conditional Uses on Nonhigh Value Farmland Only.
- 18.16.033. Nonresidential Conditional Uses on High Value Farmland Only.
- 18.16.035. Destination Resorts.
- 18.16.037. Guest Ranch.
- 18.16.038. Special Conditions for Certain Uses Listed Under DCC 18.16.025.
- 18.16.040. Limitations on Conditional Uses.
- 18.16.042. Agri-Tourism and Other Commercial Events or Activities Limited Use Permit
- 18.16.043. Single Permit
- 18.16.050. Standards for Dwellings in the EFU Zones.
- 18.16.055. Land Divisions.
- 18.16.060. Dimensional Standards.
- 18.16.065. Subzones.
- 18.16.067. Farm Management Plans.
- 18.16.070. Yards.
- 18.16.080. Stream Setbacks.
- 18.16.090. Rimrock Setback.

“****” Denotes sections of the Deschutes County Code not amended by Ordinance 2011-004.

- 18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.
 - A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC 18.16.050.
 - B. A relative farm assistance dwelling, subject to DCC 18.16.050.
 - C. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are not within 3 miles of an acknowledged urban growth boundary, on non-high value farmland.
 - D. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are within 3 miles of an acknowledged urban growth boundary, subject to the approval of an exception pursuant to ORS 197.732 and OAR chapter 660, division 004, on non-high value farmland.
 - E. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use.
 - F. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in DCC 18.16.038(A).
 - G. Winery, as described in ORS 215.452.
 - H. Farm stands, subject to DCC 18.16.038.

- I. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may be reasonably necessary.
- J. A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility.
 - a. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.
 - b. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.
 - c. The County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

K. Agri-tourism and other commercial events and activities subject to DCC 18.16.042.

(Ord. 2012-004, §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004)

18.16.038. Special Conditions for Certain Uses Listed Under DCC 18.16.025.

- A. A utility facility necessary for public use allowed under DCC 18.16.025 shall be one that is necessary to be situated in an agricultural zone in order for service to be provided. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 - 1. Technical and engineering feasibility;
 - 2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - 3. Lack of available urban and non-resource lands;
 - 4. Availability of existing rights of way;
 - 5. Public health and safety; and
 - 6. Other requirements of state and federal agencies.
 - 7. Costs associated with any of the factors listed in 1-6 above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities that are not substantially similar.
 - 8. The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
 - 9. In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
 - 10. The provisions above do not apply to interstate gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
 - 11. The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use, in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

- B. Wineries are subject to the following:
1. A winery, authorized under DCC 18.16.025 is a facility that produces wine with a maximum annual production of:
 - a. Less than 50,000 gallons and ~~that~~:
 - i. Owns an on-site vineyard of at least 15 acres;
 - ii. Owns a contiguous vineyard of at least 15 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of i, ii or iii of this subsection; or
 - b. At least 50,000 gallons and ~~no more than 100,000 gallons~~ the winery:
 - i. Owns an on-site vineyard of at least 40 acres;
 - ii. Owns a contiguous vineyard of at least 40 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of i, ii, or iii of this sub-section.
 - ~~3. The winery shall allow only the sale of:

 - a. Wines produced in conjunction with the winery; and
 - b. Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.~~
 - ~~4. Prior to issuance of a permit to establish a winery, the applicant shall show that vineyards, described under either 1 or 2 above, have been planted or that the contract has been executed, as applicable.~~
 - ~~5. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

 - a. Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
 - b. Provision of direct road access, internal circulation and parking shall be demonstrated through site plan review under DCC 18.124.~~
 - ~~6. Approval of a winery shall not be a basis for an exception under ORS 197.732(1)(a) or (b).~~
 2. A winery may:
 - a. Market and sell wine produced in conjunction with the winery, including the following activities:
 - i. Wine tours;
 - ii. Wine tastings in a tasting room or other location at the winery;
 - iii. Wine clubs; and
 - iv. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
 - b. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and
 - c. Provide services, including private events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
 - i. Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - ii. Are incidental to the retail sale of wine on-site; and
 - iii. Are limited to 25 days or fewer in a calendar year.
 3. Gross Income.
 - a. The gross income of the winery from the sale of incidental items pursuant to subsection (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not

- exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
- b. The winery shall submit to the Deschutes County Community Development Department a written statement, prepared by a certified public accountant, that certifies compliance with this section for the previous tax year by April 15 of each year in which private events are held.
4. A winery operating under this section shall provide parking for all activities or uses on the lot, parcel or tract on which the winery is established.
5. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsections (B)(1) of this section have been planted or that the contract for the purchase of grapes has been executed, as applicable.
6. The siting of a winery shall be subject to the following standards:
- a. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places.
- b. Shall comply with DCC Chapter 18.80, Airport Safety Combining Zone, and DCC 18.116.180, Building Setbacks for the Protection of Solar Access.
7. As used in this section, "private events" includes, but is not limited to, facility rentals and celebratory gatherings.
8. The winery shall have direct road access and internal circulation.
9. A winery is subject to the following public health and safety standards:
- a. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
- b. No event, gathering or activity may begin before 7:00 a.m. or end after 10:00 p.m., including set-up and take-down of temporary structures.
- c. Noise control.
- i. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
- ii. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during private events.
- d. Adequate traffic control must be provided by the property owner to address the following:
- i. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
- ii. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
- e. Structures.
- i. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
- ii. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.
- f. Inspection of event premises authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.

10. DCC Chapter 18.16.038(B), Sections (2c),(3), (7) and (9) sunset on January 1, 2014.
(Ord. 2012-004 §2, 2012, Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord.
2004-001 §2, 2004)

18.16.042 Agri-Tourism and other Commercial Events or Activities Limited Use Permit

- A. Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.
- B. Application. The application shall include the following.
1. The General Provisions information required in DCC 22.08.010.
 2. A written description of:
 - a. The proposal.
 - b. The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.
 - c. The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.
 3. A traffic management plan that:
 - a. Identifies the projected number of vehicles and any anticipated use of public roads;
 - b. Provides an assurance that one traffic control person shall be provided for each 250 persons expected or reasonably expected to be in attendance at any time during the agri-tourism and other commercial event or activity. The traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - c. Demonstrates that the parcel, lot or tract has direct access such that the lot, parcel or tract on which commercial events will occur:
 - i. Fronts on a public road; or
 - ii. Is accessed by an access easement or private road, and all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.
 4. Inspection of Event Premises Authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.
- C. Approval Criteria.
1. Type 1. Up to six (6) agri-tourism events in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
 - a. Criteria set forth in 18.16.042(C)(2)(d-j).
 - b. May not, individually, exceed one calendar day.
 - c. Commercial events or activities are not permitted.

- d. Minimum lot or parcel size: 5 acres.
 - e. Comply with DCC Chapter 8.08 Noise Control at all times. Sound amplification and sound producing devices are prohibited.
 - f. The maximum attendance is 30 at any one time for all non-residents of the tract.
 - g. Where there is a conflict between this section and DCC 18.16.042(C)(4-12), the more restrictive criteria shall apply.
2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
- a. Minimum lot or parcel size: 10 acres.
 - b. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.
 - d. Must be incidental and subordinate to existing farm use of the tract, and shall be related to and supportive of agriculture.
 - e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one business day after the agri-tourism and other commercial events or activities between 7:00 a.m. and 10:00 p.m.
 - f. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities.
 - g. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.
 - h. Must comply with ORS 215.296.
 - i. Limited Use Permits approved under this section expire two years from the date of approval.
 - j. Limited Permits may be renewed for an additional two years subject to:
 - i. An application for renewal; and
 - ii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
3. Type 3. Agri-tourism or other commercial events or activities may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, more frequently or for a longer period than allowed under 18.16.042(C)(1) and (2) if the agri-tourism or other commercial events or activities is in compliance with:
- a. Criteria set forth in 18.16.042(C)(2)(d)(e)(f)(g) and (h).
 - b. Must be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.
 - c. Minimum lot or parcel size: 160 acres.
 - d. Do not exceed 18 commercial events or activities in a calendar year.
 - e. Commercial events or activities may not, individually, exceed a duration of 24 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 24 consecutive hours.
 - f. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - g. No more than two commercial events or activities may occur in one month.
 - h. Limited Use Permits approved under this section expire four years from the date of approval.

- i. Limited Use Permits may be renewed at four year intervals subject to:
 - i. An application for renewal;
 - ii. Public notice and public comment as part of the review process.
 - iii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
- 4. The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.
- 5. Notification of agri-tourism and other commercial events or activities.
 - a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.
 - b. The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.
 - c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.
 - d. The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.
- 6. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
- 7. Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.
- 8. Overnight camping is not allowed.
- 9. Noise Control
 - a. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - b. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.
- 10. Transportation Management.
 - a. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
 - b. Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.
 - c. The parcel, lot or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).
 - d. Adequate traffic control must be provided by the property owner to address the following:
 - i. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 - ii. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
- 11. Health and Safety Compliance
 - a. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County

Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.

b. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.

12. The maximum number of people shall not exceed 500 per calendar day.

13. Agri-Tourism and other Commercial Events or Activities shall not be allowed:

a. Within the County adopted big game winter ranges during the months of December through March.

b. Within the County adopted big game migration corridors during the month of April and during the months of October and November.

c. Within the County adopted sensitive bird and mammal habitat areas as defined in DCC 18.90.020, unless a site has had no nesting attempt or the nest has failed, as determined by a professional wildlife biologist in May of the calendar year in which the application is approved, unless a site has had no nesting attempt or the nest has failed which could be determined in May by a professional wildlife biologist.

(Ord. 2012-004, §2, 2012)

18.16.043 Single Permit.

A. The maximum number of agri-tourism and other commercial events or activities on a lot, parcel or tract may not exceed the total number of commercial events allowed by any individual land use approval, including a winery authorized under DCC 18.16.038(B), and events, outdoor mass gatherings or extended outdoor mass gatherings authorized under DCC Chapter 8.16. B.

The following permits may not be combined:

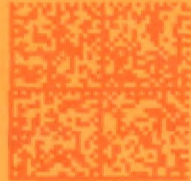
1. Agri-tourism and other commercial events or activities under DCC 18.16.042,

2. Winery under DCC 18.16.038(B),

3. Events, outdoor mass gatherings, extended outdoor mass gatherings, parades or funeral processions authorized under DCC Chapter 8.16,

4. Home occupation for commercial events or activities.

(Ord. 2012-004, §2, 2012)



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LAND CONSERVATION
AND DEVELOPMENT

Deschutes County Community Development Department

117 NW LAFAYETTE AVENUE
BEND, OREGON 97701-1925
(541) 388-6575

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPT. OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540