



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## **NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION**

Date: 10/02/2014  
Jurisdiction: Deschutes County  
Local file no.: TA-14-4  
DLCD file no.: 010-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/29/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 45 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
File No.: 010-14 {22394}  
Received: 9/29/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Deschutes County

Local file no.: **TA-14-4**

Date of adoption: 9.29.14

Date sent: 9.29.14

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 8.1.14

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Will Groves, Senior Planner

Phone: 5413886518

E-mail: willg@deschutes.org

Street address: 117 NW Lafayette

City: Bend

Zip: 97701-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

No comprehensive plan or map changes.

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary





For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code \*  
Section 19.04.040 and Chapter 19.106, Reducing \*  
Destination Resorts Overnight Lodging Unit \*  
Availability Requirements. \*

ORDINANCE NO. 2014-016

WHEREAS, Tetherow Vacation Homes, LLC applied for a text amendment to Deschutes County Code ("DCC") 19.04.040, Definitions and 19.106, Destination Resorts, to reduce the number of weeks individually owned overnight units must be available to the public from 45 to 38 weeks; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on July 10, 2014, before the Deschutes County Planning Commission and, on July 10, 2014, the Planning Commission recommended approval of the text amendment; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearing on September 15, 2014, and concluded that the proposed changes are consistent with the County's Comprehensive Plan and that the public will benefit from changes to the land use regulations; now therefore,

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

Section 1. AMENDMENT. DCC 19.04.040, Definitions, is amended to read as described in Exhibit "A", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. AMENDMENT. DCC Chapter 19.106, Destination Resorts, is amended to read as described in Exhibit "B", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.


///

Section 3. FINDINGS. The Board adopts as its findings in support of this decision, Exhibit "C", attached and incorporated by reference herein.

Dated this 29<sup>th</sup> of Sept., 2014

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
\_\_\_\_\_  
TAMMY BANEY, Chair

  
\_\_\_\_\_  
TONY DeBONE, Vice Chair

ATTEST:

  
\_\_\_\_\_  
ALAN UNGER, Commissioner

Recording Secretary

Date of 1<sup>st</sup> Reading: 15<sup>th</sup> day of Sept., 2014.

Date of 2<sup>nd</sup> Reading: 29<sup>th</sup> day of Sept., 2014.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	<input checked="" type="checkbox"/>	___	___	___
Tammy Baney	<input checked="" type="checkbox"/>	___	___	___
Tony DeBone	<input checked="" type="checkbox"/>	___	___	___

Effective date: 29<sup>th</sup> day of Dec., 2014.

\*\*\*\* Denotes text not amended by Ordinance 2014-016

#### 19.04.040. Definitions.

\*\*\*\*

"Destination resort" means a self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. To qualify as a "large destination resort" under Goal 8, a proposed development must meet the following standards:

- A. The resort is located on a site of 160 or more acres;
- B. At least 50 percent of the site is dedicated to permanent open space, excluding yards, streets, and parking areas;
- C. A least \$7 million (in 1993 dollars) shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities, and;
- D. Visitor-oriented accommodations are provided, including meeting rooms, restaurants with seating for 100 persons and 150 separate rentable units for overnight lodgings. Accommodations available for residential use shall not exceed two and one-half such units for each unit of overnight lodging. However, the overnight lodging units may be phased in as follows:

1. A total of 150 units of visitor-oriented overnight lodging shall be provided as follows:
  - a. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units~~75 units of overnight lodging, not including any individually owned homes, lots or units shall be constructed or guaranteed through surety bonding or equivalent financial assurance prior to the closure of sale of individual lots or units, and;~~
  - b. At least 50 of the remaining 100 required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurance within five years of the initial lot sales.~~The remainder of the overnight lodging units shall be provided as individually owned lots or units subject to deed restrictions that limit their use to overnight lodging units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by DCC 19.04.040.~~
  - c. The remaining required overnight lodging units must be constructed or guaranteed through surety bonding or equivalent financial assurances within 10 years of the initial lot sales.
2. The number of units approved for residential sale within the resort shall be not more than two and one-half units for each unit of permanent overnight lodging .constructed or financially assured, and;
3. ~~The development approval shall provide for the construction of other required overnight lodging units within five years of the initial lot sales.~~
3. If the developer of a resort guarantees the overnight lodging units required under subparagraphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within four years of the date of execution of the surety bond or other equivalent financial assurance.

- E. Commercial uses allowed are limited to those types and levels necessary to meet the needs of visitors to the development. Industrial uses of any kind are not permitted.

\*\*\*\*

"Overnight lodgings" with respect to destination resorts, means permanent, separately rentable accommodations that are not available for residential use. Overnight lodgings include hotel or motel rooms, cabins and time-share units. Individually-owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least ~~45~~38 weeks per calendar year through a central reservation and check-in services system operated by the destination resort or by a real estate property

manager, as defined in ORS 696.010. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms and similar accommodations do not qualify as overnight lodging for the purpose of this definition.

\*\*\*\*

(Ord. 2014-016 §1, 2014; Ord. 2013-013 §1; Ord. 99-001 §§2-4, 1999; Ord. 97-038 §1, 1997; Ord. 97-017 §1, 1996; Ord. 96-071 §1D, 1996; Ord. 95-045 §15, 1995; Ord. 94-027 §§1 & 2, 1994; Ord. 92-043 §1, 1992; Ord. 91-029 §§1, 8, 9 and 10, 1991; Ord. 91-001 §1, 1991; Ord. 90-038 §1, 1990; Ord. 90-007 §1, 1990; Ord. 88-042 §3, 1988; Ord. 86-058 §1, 1986; Ord. 86-055 §1, 1986; Ord. 86-033 §1, 1983; Ord. 86-032 §1, 1986; Ord. 86-017 §1 Exhibit a, 1986; Ord. 830945 §1, 1983; Ord. 83-041 §2, 1983; Ord. 80-217 §1 Exhibit A, 1980)

## **Chapter 19.106. DESTINATION RESORTS**

- 19.106.010. Purpose.**
- 19.106.020. Applicability.**
- 19.106.030. Uses in Destination Resorts.**
- 19.106.040. Application Submission.**
- 19.106.050. Requirements for Conditional Use Permit and Conceptual Master Plan Applications.**
- 19.106.060. Standards for Destination Resorts.**
- 19.106.070. Approval Criteria.**
- 19.106.075. Imposition of Conditions.**
- 19.106.080. Procedure for Modification of a Conceptual Master Plan.**
- 19.106.090. Requirements for Final Master Plan.**
- 19.106.100. Procedure for Approval of Final Master Plan.**
- 19.106.110. Provision of Streets, Utilities, Developed Recreational Facilities and Visitor-Oriented Accommodations.**
- 19.106.120. Conservation Easement to Protect Resource Site.**

### **19.106.010. Purpose.**

- A. The purpose of DCC 19.106 to establish an approval process for siting destination resorts under LCDC Goal 8 and the Bend Urban Area General Plan on lands identified in the Bend Urban Area General Plan map as eligible for destination resort siting.
- B. DCC 19.106 provides for properly designed and sited destination resort facilities which enhance and diversify the recreational opportunities and the economy of the Bend area and Deschutes County. It will ensure resort development that compliments the natural and cultural attractiveness of the Bend area and its surroundings and enhances its economic base without significant adverse effect on commercial farming and forestry, environmental and natural features, cultural and historic resources and their settings and other significant resources.
- C. It is the intent of DCC 19.106 to establish procedures and standards for developing destination resorts while ensuring that all applicable Bend Urban Area General Plan policies are achieved.
- D. It is the intent of DCC 19.106 to ensure that all elements of a destination resort which are proposed are financially secured in a manner which will protect the public's interest should the development not be completed as proposed.
- E. It is not the intent of DCC 19.106 to site developments that are in effect rural subdivisions whose primary purpose is to serve full-time residents of the area.

(Ord. 99-001 §1, 1999)

### **19.106.020. Applicability.**

- A. The provisions of DCC 19.106 shall apply to proposals for the development of destination resorts, as defined in areas designated by the Bend Area General Plan destination resort map. The provisions of DCC 19.106 shall not apply to any development proposal for resort siting in an area designated in the Bend Area General Plan.
- B. When these provisions are applicable, they shall supersede all other provisions of the underlying zone. Other provisions of the zoning ordinance made applicable by specific map designations such as the FP otherwise applicable under the terms of the zoning ordinance text shall remain in full force and effect, unless otherwise specified herein.
- C. The provisions of DCC 19.106 shall also apply to destination resorts sited through the Goal 2 exception process.

(Ord. 99-001 §1, 1999)



### **19.106.030. Uses in Destination Resorts.**

The following uses are allowed, provided they are part of and are intended to serve persons at the destination resort pursuant to DCC 19.106.030 and are approved in a final master plan:

- A. Visitor-oriented accommodations designed to provide for the needs of visitors to the resort:
  - 1. Overnight lodging, including lodges, hotels, motels, bed and breakfast facilities, time share units and similar transient lodging facilities;
  - 2. Convention and conference facilities and meeting rooms;
  - 3. Retreat centers;
  - 4. Restaurants, lounges and similar eating and drinking establishments; or
  - 5. Other similar visitor-oriented accommodations consistent with the purposes of DCC 19.106 and Goal 8.
- B. Developed recreational facilities designed to provide for the needs of visitors and residents of the resort including:
  - 1. Golf courses and clubhouses;
  - 2. Indoor and outdoor swimming pools;
  - 3. Indoor and outdoor tennis courts;
  - 4. Physical fitness facilities;
  - 5. Equestrian facilities;
  - 6. Wildlife observation shelters;
  - 7. Walkways, bike paths, jogging paths, equestrian trails; or
  - 8. Other similar recreational facilities consistent with the purposes of DCC 19.106 and Goal 8.
- C. Residential accommodations:
  - 1. Single-family dwellings;
  - 2. Duplexes, triplexes, fourplexes and multi-family dwellings;
  - 3. Condominiums;
  - 4. Townhouses;
  - 5. Living quarters for employees; or
  - 6. Time share projects.
- D. Commercial services and specialty shops designed to provide for the visitors to the resort:
  - 1. Specialty shops including, but not limited to delis, clothing stores, book stores, gift shops and specialty food shops;
  - 2. Barber shops and beauty salons;
  - 3. Automobile service stations limited to fuel sales, incidental parts sales and minor repairs;
  - 4. Craft and art studios and galleries;
  - 5. Real estate offices;
  - 6. Convenience stores; or
  - 7. Other similar commercial services which provide for the needs of resort visitors and are consistent with the purposes of DCC 19.106 and Goal 8.
- E. Uses permitted in open space areas generally include only those uses that, except as specified herein, do not alter the existing or natural landscape of the proposed open space areas. No improvements, development or other alteration of the natural or existing landscape shall be allowed in open space areas, except as necessary for development of golf course fairways and greens, hiking and bike trails, lakes and ponds and primitive picnic facilities including park benches and picnic tables. Where farming activities would be consistent with identified pre-existing open space uses, irrigation equipment and associated pumping facilities shall be allowed.
- F. Facilities necessary for public safety and utility service within the destination resort.
- G. Other similar uses permitted in the underlying zone consistent with the purposes of DCC 19.106.020.
- H. Accessory uses in destination resorts:
  - 1. The following accessory uses shall be permitted provided they are ancillary to the destination resort and consistent with the purposes of DCC 19.106 and Goal 8:
    - a. Transportation-related facilities excluding airports;
    - b. Emergency medical facilities;

- c. Storage structures and areas;
- d. Kennels as a service for resort visitors only;
- e. Recycling and garbage collection facilities; or
- f. Other similar accessory uses are consistent with the purposes of DCC 19.106 and Goal 8.

(Ord. 99-001 §1, 1999)

**19.106.040. Application Submission.**

The authorization of a permit for a destination resort shall consist of three steps.

- A. Conceptual master plan and conditional use permit for destination resort. A conceptual master plan (CMP) shall be submitted which addresses all requirements established in DCC 19.106.040. The CMP application shall be processed as if it were a conditional use permit under DCC Title 22 and DCC 19.100, and shall be reviewed for compliance with the standards and criteria set forth in DCC 19.106.
- B. Final master plan. The applicant shall prepare a final master plan (FMP) which incorporates all requirements of the County approval for the CMP. The Planning Director shall review the FMP to determine if it complies with the approved CMP and all conditions of approval of the conditional use permit. The Planning Director shall have the authority to approve, deny or return the FMP to the applicant for additional information. When interpretations of the Planning Director involve issues which are discretionary, the FMP approval shall be treated as a land use permit in accordance with DCC Title 22.
- C. Site plan review. Each element or development phase of the destination resort must receive additional site plan review and approval pursuant to DCC 19.76 or subdivision review and approval pursuant to DCC Title 17. In addition to findings satisfying the site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of DCC 19.106 and the FMP.

(Ord. 99-001 §1, 1999)

**19.106.050. Requirements for Conditional Use Permit and Conceptual Master Plan Applications.**

The CMP provides the framework for development of the destination resort and is intended to ensure that the destination resort meets the requirements of DCC 19.106. The CMP application shall include the following information:

- A. Illustrations and graphics to scale, identifying:
  - 1. The location and total number of acres to be developed as a planned destination resort;
  - 2. The subject area and all land uses adjacent to the subject area;
  - 3. The topographic character of the site;
  - 4. Types and general location of proposed development uses, including residential and commercial uses;
  - 5. Major geographic features;
  - 6. Proposed methods of access to the development, identifying the main vehicular circulation system within the resort and an indication of whether streets will be public or private;
  - 7. Major pedestrian, equestrian and bicycle trail systems;
  - 8. Important natural features of the site, including habitat of threatened or endangered species, streams, rivers, wetlands and riparian vegetation within 200 feet of streams, rivers and wetlands.
  - 9. The location and number of acres reserved as open space, buffer area or common area. Areas designated as "open space," "buffer area" or "common area" should be clearly illustrated and labeled as such;
  - 10. All proposed recreational amenities;
  - 11. Proposed overall density.
- B. Further information as follows:
  - 1. A description of the natural characteristics of the site and surrounding areas, including a description of resources and the effect of the destination resort on the resources; methods employed to mitigate adverse impacts on resources; analysis of how the overall values of the natural features of the site

will be preserved, enhanced or utilized in the design concept for the destination resort; and a proposed resource protection plan to ensure that important natural features will be protected and maintained. Factors to be addressed include:

- a. Compatibility of soil composition for proposed development(s) and potential erosion hazard;
  - b. Geology, including areas of potential instability;
  - c. Slope and general topography;
  - d. Areas subject to flooding,
  - e. Other hazards or development constraints;
  - f. Vegetation;
  - g. Water areas, including streams, lakes, ponds and wetlands;
  - h. Important natural features;
  - i. Wildlife.
2. A traffic study which addresses (a) impacts on affected county, city and state road systems; and (b) transportation improvements necessary to mitigate any such impacts. The study shall be submitted to the affected road authority at the same time as the conceptual master plan and shall be prepared by a licensed traffic engineer to the minimum standards of the road authorities.
  3. A description of how the proposed destination resort will satisfy the standards and criteria of DCC 19.106.060 and 19.106.070.
  4. Design guidelines and development standards defining visual and aesthetic parameters for:
    - a. Building character;
    - b. Landscape character;
    - c. Preservation of existing topography and vegetation;
    - d. Siting of buildings; and
    - e. Proposed standards for minimum lot area, width, frontage, lot coverage, setbacks and building heights.
  5. An open space management plan which includes:
    - a. An explanation of how the open space management plan meets the minimum standards of DCC 19.106 for each phase of the development;
    - b. An inventory of the important natural features identified in the open space areas and any other open space and natural values present in the open space;
    - c. A set of management prescriptions that will operate to maintain and conserve in perpetuity any identified important natural features and other natural or open space values present in the open space;
    - d. Deed restrictions that will assure that the open space areas are maintained as open space in perpetuity.
  6. An explanation of public use of facilities and amenities on the site.
  7. A description of the proposed method of providing all utility systems, including the location and sizing of the utility systems;
  8. A description of the proposed order and schedule for phasing, if any, of all development including an explanation of when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;
  9. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;
  10. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;
  11. Unless the destination resort is proposing to utilize municipal water, the application shall include a study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:

- a. An estimate of water demands (other than municipal water) for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to, residential, commercial, golf courses and irrigated common areas;
  - b. Availability of water (other than municipal water) for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;
  - c. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conservation plan shall include a waste water disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable unless the destination resort proposes to utilize city sewer services.  
For the purposes of DCC 19.106.050, beneficial uses shall include, but are not limited to:
    - i. Irrigation of golf courses and greenways;
    - ii. Establishment of artificial wetlands for wildlife habitation.
  - d. A water service agreement with the city of Bend, if municipal water is proposed for the destination resort.
12. An erosion control plan for all disturbed land, as required by ORS Chapter 468B. This plan shall include storm and melt water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;
  13. A description of proposed sewage disposal methods or a sewer service agreement with the city of Bend;
  14. Wildfire prevention, control and evacuation plans;
  15. A description of interim development including temporary structures related to sales and development;
  16. Plans for owners' associations and related transition of responsibilities and transfer of property;
  17. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;
  18. A survey of housing availability for employees based upon income level and commuting distance;
  19. An economic impact and feasibility analysis of the proposed development prepared by a qualified professional economist(s) or financial analyst(s) shall be provided which includes:
    - a. An analysis which addresses the economic viability of the proposed development;
    - b. Fiscal impacts of the project, including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and the effects of loss of resource lands during the life of the project.
  20. A solid waste management plan;
  21. ~~A description of the system to be used for the management of any individually owned units that will be used for overnight lodging and how it will be implemented, including proposed rental contract provisions to assure that any individually owned lodging facilities will be available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation and check-in service; Ratio Compliance~~
    - a. A description of the mechanism to be used to ensure that the destination resort provides an adequate supply of overnight lodging units to maintain compliance with the 150-unit minimum and the 2.5:1 ratio set forth in DCC 19.106.060(D)(2).
    - b. The mechanism shall meet the requirements of DCC 19.106.060(J);
  22. A survey of historic and cultural resources inventoried on an acknowledged Goal 5 inventory;
  23. Other information as may reasonably be required by the Planning Director to address the effect of the proposed development as related to the requirements of this ordinance.

(Ord. 2014-016 §2, 2014; Ord. 99-001 §1, 1999)

**19.106.060. Standards for Destination Resorts.**

The following standards shall govern consideration of destination resorts:

- A. The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:
  - 1. At least 150 separate rentable units for visitor-oriented lodging;
    - a. The first 50 overnight lodging units must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
    - b. The resort may elect to phase in the remaining 100 overnight lodging units as follows:
      - i. At least 50 of the remaining 100 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 5 years of the closure of sale of individual lots or units, and;
      - ii. The remaining 50 required overnight lodging units shall be constructed or guaranteed through surety bonding or equivalent financial assurance within 10 years of the closure of sale of individual lots or units.
      - iii. If the developer of a resort guarantees a portion of the overnight lodging units required under subsection 19.106.060(A)(1)(b) through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurance.
      - iv. The 2.5:1 accommodation ratio required by DCC 19.106.060(D)(2) must be maintained at all times.
    - c. If a resort does not chose to phase the overnight lodging units as described in 18.113.060(A)(1)(b), then the required 150 units of overnight lodging must be constructed prior to the closure of sales, rental or lease of any residential dwellings or lots.
  - 2. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide seating for at least 100 persons;
  - 3. The aggregate cost of developing the overnight lodging facilities, developed recreational facilities, and the eating establishments and meeting rooms shall be at least \$ 7,000,000 (in 1993 dollars).
  - 34. At least \$ 2,333,333 of the \$7,000,000 (in 1993 dollars) total minimum investment required by DCC 19.106.060 (A)(3) shall be spent on developed recreational facilities.  
~~At least \$7 million shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. The spending minimums provided for are stated in 1993 dollars; and~~
  - 45. The facilities and accommodations required by this DCC 19.106.060 must be physically provided or financially assured pursuant to DCC 19.106.110 prior to closure of sales, rental or lease of any residential dwellings or lots.
- B. All destination resorts shall have a minimum of 160 contiguous acres of land. Acreage split by public roads or rivers or streams shall count toward the acreage limit, provided that the CMP demonstrates that the isolated acreage will be operated or managed in a manner that will be integral to the remainder of the resort.
- C. All destination resorts shall have direct access onto a state, county, or city arterial or collector roadway, as designated by the Bend Urban Area General Plan.
- D. A destination resort shall, cumulatively and for each phase, meet the following minimum requirements:
  - 1. The resort shall have a minimum of 50 percent of the total acreage of the development dedicated to permanent open space, excluding yards, streets and parking areas. Portions of individual residential lots and landscape area requirements for developed recreational facilities, visitor-oriented

- accommodations or multi-family or commercial uses established by DCC 19.76.080 shall not be considered open space; and
2. Individually-owned residential units that do not meet the definition of overnight lodging in DCC 19.04.040 shall not exceed two and one-half such units for each unit of visitor-oriented overnight lodging constructed or financially assured within the resort.
  3. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 45-38 weeks per calendar year through a one or more central reservation and check-in service(s) system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.
- ~~a. 4. The residential unit to overnight lodging unit- ratio applies to destination resorts which were previously approved under a different standard.~~
- E. Phasing. A destination resort authorized pursuant to DCC 19.106.060 may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be as described in the CMP. Each individual phase shall meet the following requirements:
1. Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of DCC 19.106 and Goal 8;
  2. The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 19.106.060 and DCC 19.76.070, and;
  3. Each phase may include two or more distinct non-contiguous areas within the destination resort.
- F. Dimensional standards:
1. The minimum lot area, width, lot coverage, frontage and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of DCC 19.88.210 relating to solar access shall not apply within a destination resort.
    - a. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP.
    - b. In determining these standards, the Planning Director or Hearings Body shall find that the minimum specified in the CMP ~~are~~ is adequate to satisfy the intent of the Bend Urban Area General Plan relating to solar access, fire protection, vehicle access, and to protect resources identified by LCDC Goal 5 which are identified in the Bend Urban Area General Plan.
    - c. At a minimum, a 100 foot setback shall be maintained from all streams and rivers. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.
  2. Exterior setbacks and buffers.
    - a. A destination resort shall provide for the establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fences, berms, landscaped areas, and other similar types of buffers.
    - b. Exterior setbacks shall also be provided to ensure that improvements and activities are located to minimize adverse effects of the resort on uses on surrounding lands.
- G. Floodplain requirements. The Flood Plain Zone (FP) requirements of DCC 19.72 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 19.106. Except for flood plain areas which have been granted an exception to LCDC goals 3 and 4, Flood Plain Zones shall not be considered part of a destination resort when determining compliance with the following standards;
1. One hundred sixty acre minimum site;
  2. Open space requirements.

A conservation easement as described in DCC Title 19 shall be conveyed to the County for all areas within a flood plain which are part of a destination resort.
- H. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be a separate conditional use subject to all pertinent requirements of DCC Title 19.
- I. Time share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 19.100. Time share units identified as part of the destination resort's overnight lodging units shall not be subject to the time share conditional use criteria of DCC 19.100.

- J. The overnight lodging criteria shall be met, including the 150-unit minimum and the 2-1/2 to 1 ratio set forth in DCC 19.106.060(D)(2).
1. Failure of the approved destination resort to comply with the requirements in DCC 19.106.060(J)(2) through (6) will result in the County declining to accept or process any further land use actions associated with any part of the resort and the County shall not issue any permits associated with any lots or site plans on any part of the resort until proof is provided to the County of compliance with those conditions.
  2. Each resort shall compile, and maintain, in perpetuity, a list of all overnight lodging units.
    - a. The list shall identify each individually-owned unit that is counted as overnight lodging.
    - b. At all times, at least one entity shall be responsible for maintaining the registry and fulfilling the reporting requirements of DCC 19.106.060(J)(2) through (6).
    - c. Initially, the resort management shall be responsible for compiling and maintaining the registry.
    - d. As a resort develops, the developer shall transfer responsibility for maintaining the registry to the homeowner association(s). The terms and timing of this transfer shall be specified in the Conditions, Covenants & Restrictions (CC&Rs).
    - e. Resort management shall notify the County prior to assigning the registry to a homeowner association.
    - f. Each resort shall maintain records documenting its rental program related to overnight lodging units at a convenient location in Deschutes County, with those records accessible to the County upon 72 hour notice from the County.
    - g. As used in this section, "resort management" includes, but is not limited to, the applicant and the applicant's heirs, successors in interest, assignees other than a home owners association.
  3. An annual report shall be submitted to the Planning Division by the resort management or home owners association(s) each February 1, documenting all of the following as of December 31 of the previous year:
    - a. The minimum of 150 permanent units of overnight lodging have been constructed or that the resort is not yet required to have constructed the 150 units;
    - b. The number of individually-owned residential platted lots and the number of overnight-lodging units;
    - c. The ratio between the individually-owned residential platted lots and the overnight lodging units;
    - d. The following information on each individually-owned residential unit counted as overnight lodging.
      - i. Who the owner or owners have been over the last year;
      - ii. How many nights out of the year the unit was available for rent;
      - iii. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 19.106;
      - iv. Documentation showing that these units were available for rental as required.
    - e. This information shall be public record subject to ORS 192.502(17).
  4. To facilitate rental to the general public of the overnight lodging units, each resort shall set up and maintain in perpetuity a telephone reservation system.
  5. Any outside property managers renting required overnight lodging units shall be required to cooperate with the provisions of this code and to annually provide rental information on any required overnight lodging units they represent to the person or entity responsible for maintaining the registry described in DCC 19.106.060(J)(2).
  6. Before approval of each final plat, all the following shall be provided:
    - a. Documentation demonstrating compliance with the 2-1/2 to 1 ratio as defined in DCC 19.106.060(D)(2);
    - b. Documentation on all individually-owned residential units counted as overnight lodging, including all of the following:
      - i. Deed restrictions, that may be in the form of, but is not limited to, conditions of approval agreements, requiring the individually-owned residential units designated as overnight

lodging units to be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010;

- a. A modification of approval application approval shall be required to remove the overnight lodging unit designation.
- b. The modification of approval application approval must be obtained prior to County releasing any deed restrictions requiring minimum rental availability for an individually-owned residential unit counted as overnight lodging.
- ii. An irrevocable provision in the resort Conditions, Covenants and Restrictions (“CC&Rs) requiring the individually-owned residential units designated as overnight lodging units to be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
- iii. A provision in the resort CC&R’s that all property owners within the resort recognize that failure to meet the conditions in DCC 19.106.060(J)(6)(b)(ii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;
- iv. Inclusion of language in any rental management contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation service operated by the resort or by a real estate property manager, as defined in ORS 696.010, and that failure to meet the conditions in DCC 19.106.060(J)(6)(b)(iv) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.

(Ord. 2014-016, §2, 2014; Ord. 2013-003 §1; Ord. 99-001 §1, 1999)

**19.106.070. Approval Criteria.**

In order to approve a destination resort, the Planning Director or Hearings Body shall find from substantial evidence in the record that:

- A. The subject proposal is a destination resort as defined in DCC 19.04.040.
- B. All standards established by DCC 19.106.060 are or will be met.
- C. The economic analysis demonstrates that:
  1. The necessary financial resources are available for the applicant to undertake the development consistent with the minimum investment requirements established by DCC 19.106;
  2. Appropriate assurance has been submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved;
  3. The destination resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land, and;
  4. The natural amenities of the site considered together with the identified developed recreation facilities to be provided with the resort will constitute a primary attraction to visitors, based on the economic feasibility analysis.
- D. The destination resort incorporates design components, setbacks, and buffers to protect designated wildlife areas.
- E. Important natural features, including but not limited to, significant wetlands, riparian habitat and landscape management corridors will be maintained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained.
- F. The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.



- G. Destination resort developments that significantly affect a transportation facility shall assure that the development is consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either:
1. Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;
  2. Providing transportation facilities adequate to support the proposed development consistent with OAR Chapter 660, Division 12; or
  3. Altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.
- A destination resort significantly affects a transportation facility if it would result in levels of travel or access that are inconsistent with the functional classification of a facility or would reduce the level of service of the facility below the minimum acceptable level identified in the relevant transportation system plan.
- a. Where the option of providing transportation facilities is chosen, the applicant shall be required to improve impacted roads to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development as determined by the traffic study or the recommendations of the affected road authority.
  - b. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.
- H. The development will not create the potential for natural hazards identified in the Bend Urban Area General Plan. No structure will be located on slopes exceeding 25 percent. A wildfire management plan will be implemented to ensure that wildfire hazards are minimized to the greatest extent practical and allow for safe evacuation.
- I. Adequate public safety protection will be available through existing fire districts or will be provided on-site according to the specification of the state fire marshal. If the resort is located outside of an existing fire district, the developer will provide for staffed structural fire protection services or contract with or annex to the existing district. Adequate public facilities to provide for necessary safety services such as police and fire will be available to serve the proposed development.
- J. Streams and drainage. Unless otherwise agreed to in writing by the adjoining property owner(s), existing natural drainages on the site will not be changed in any manner which interferes with drainage patterns on adjoining property. All surface water drainage changes created by the development will be contained on-site in a manner which meets all standards of the Oregon State Department of Environmental Quality (DEQ). The erosion control plan for the subject development will meet all standards of ORS Chapter 468B.
- K. Adequate water will be available for all proposed uses at the destination resort, based upon the water study, a water service agreement with the city of Bend or a proposed water conservation plan as required by DCC 19.106.050. Water use will not reduce the availability of water in the water impact areas identified in the water study considering existing uses and potential development previously approved in the affected area. Water sources identified in the water plan shall not include any perched water table. Water shall only be taken from the regional aquifer. Where a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.
- L. Unless a sewer service agreement exists, the waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's making application to DEQ for a Water Pollution Control Facility (WPCF) permit consistent with such an approved waste water disposal plan. Approval shall also be conditioned upon applicant's compliance with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. Applicant shall receive approval of a WPCF permit consistent with this provision prior to applying for approval for its final master plan under DCC 19.106.
- M. The resort will mitigate any demands it creates on publicly owned recreational facilities on public lands in the surrounding area.

- N. Site improvements will be located and designed to avoid or minimize adverse effects of the resort on the surrounding land uses. Measures to accomplish this may include establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and appropriate fences, berms, landscaped areas and similar types of buffers, and setback of structures and other developments from adjacent land uses.
- O. The resort will be served by an on-site sewage system approved by DEQ and a water system approved by the Oregon State Health Division, or by municipal sewer and water as allowed by the Bend Urban Area General Plan.
- P. The destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties.
- Q. The commercial uses developed as part of the resort will be contained within the project and not oriented to public highways adjacent to the property. The commercial uses permitted in the destination resort will be limited in type and levels of use necessary to meet the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:
1. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to resorts, or the use is necessary for operation, maintenance or promotion of the destination resort; and
  2. The use is oriented to the resort and is located away from or screened from highways or other major through roadways.
- R. A plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in perpetuity in a manner acceptable to the County.
- S. Temporary structures will not be allowed unless approved as part of the CMP. Temporary structures will not be allowed for more than 18 months and will be subject to all use and site plan standards of DCC Title 19.
- T. The open space management plan is sufficient to protect in perpetuity identified open space values.
- ~~U. A mechanism to ensure that individually owned units counting toward the overnight lodging total remain available for rent for at least 45 weeks per calendar year through a central reservation and check-in service. Such a mechanism shall include all of the following:~~
- ~~1. Designation on the plat of which individually owned units are to be considered to be overnight lodging as used in DCC 19.106;~~
  - ~~2. Deed restrictions limiting use of such identified premises to overnight lodging purposes under DCC 19.106 for at least 45 weeks each year;~~
  - ~~3. Inclusion in the CC&R's of an irrevocable provision enforceable by the County limiting use of such identified units to overnight lodging purposes under DCC 19.106 for at least 45 weeks each year;~~
  - ~~4. Inclusion of language in any rental contract between the owner of the unit and any central reservation and check-in service requiring that such units be made available as overnight lodging facilities under DCC 19.106 for at least 45 weeks each year; and~~
  - ~~5. A requirement that each such unit be registered and a report be filed on each such unit yearly by the owner or central booking agent on January 1 with the Planning Division as to the following information:~~
    - ~~a. Who the owner or owners have been over the last year;~~
    - ~~b. How many nights out of the year the unit was available for rent through the central reservation and check-in service; and~~
    - ~~c. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 19.106.~~

(Ord. 2014-016, §2, 2014; Ord. 99-001 §1 1999)

\*\*\*\*

**19.106.090. Requirements for Final Master Plan.**

It shall be the responsibility of the applicant to provide a Final Master Plan (FMP) which includes text and graphics explaining and illustrating:

- A. The use, location, size and design of all important natural features, open space, buffer areas and common areas;
- B. The use and general location of all buildings, other than residential dwellings and the proposed density of residential development by location;
- C. Preliminary location of all sewer, water, storm drainage and other utility facilities and materials, and specifications and installation methods for water and wastewater systems;
- D. Location and widths of all roads, streets, parking, pedestrian ways, equestrian trails and bike paths;
- E. Methods to be employed to buffer and mitigate potential adverse impacts on adjacent resource uses and property;
- F. Building elevations of visitor-oriented accommodations, recreational facilities and commercial services sufficient to demonstrate the architectural character of the proposed development;
- G. A description of all commercial uses including approximate size and floor area;
- H. The location of or distance to any emergency medical facilities and public safety facilities;
- I. When a phase includes a residential subdivision, a general layout of the subdivision shall include the number of lots, minimum and maximum lot sizes and approximate location of roadways.
- J. ~~A description of measures taken, with copies of deed restrictions, CC&R's and rental contracts, to implement the requirements of DCC 19.106.060(J). A description of measures taken, with copies of deed restrictions, CC&R's and rental contracts to implement the measures identified in DCC 19.106 assuring that individually owned lodging units considered to be overnight lodgings for at least 45 weeks per calendar year through a central reservation and check-in service.~~
- K. A description of measures taken, with copies of deed restrictions and a final management plan, to implement the open space management plan required by DCC 19.106.
- L. The status of all required off-site roadway improvements.
- M. Methods to be employed for managing automobile traffic demand.
- N. A copy of an WPCF permit issued by DEQ consistent with the requirements of DCC 19.106.070(L).  
(Ord. 2014-016, §2, 2014; Ord. 99-001 §1, 1999)

**19.106.100. Procedure for Approval of Final Master Plan.**

A. The FMP shall be submitted in a form approved by the County Planning Director consistent with DCC Title 22 for a development permit. The Planning Director shall review the FMP and if the Planning Director finds that all standards of the CMP have been met, the FMP shall be approved in writing without notice. If approval of the FMP involves the exercise of discretion, the FMP shall be treated as a land use action and notice shall be provided in accordance with DCC Title 22.

B. If the Planning Director finds evidence in the FMP of a substantial change from the CMP, the Planning Director shall advise the applicant to submit an application for modification or amendment of the CMP.

(Ord 99-001 §1, 1999)

**19.106.110. Provision of Streets, Utilities, Developed Recreational Facilities and Visitor-Oriented Accommodations.**

A. The Planning Director or Hearings Body shall find that all streets, utilities, developed recreational facilities and visitor-oriented accommodations required by the FMP are physically provided or are guaranteed through surety bonding or substantial financial assurances approved by the County prior to closure of sale of individual lots or units.

B. Financial assurance or bonding to assure completion of streets and utilities, developed recreational facilities and visitor-oriented accommodations in the FMP shall be required pursuant to the security requirements for site plan review and subdivision review established by the Deschutes County Code.

(Ord. 99-001 §1, 1999)

19.106.120. Conservation Easement to Protect Resource Site.

A. If a tract to be used as a destination resort contains a resource site designated for protection in an acknowledged comprehensive plan pursuant to open spaces, scenic and historic areas and natural resource goals in an acknowledged comprehensive plan, that tract of land shall preserve the resource site by conservation easement sufficient to protect the resource values of the resource site in accordance with ORS 271.715 to 271.795

B. A conservation easement under DCC 19.106.120 shall be recorded with the property records of the tract on which the destination resort is sited.

(Ord. 99-001 §1, 1999)

**FINDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
FOR DESCHUTES COUNTY**

**FILE NUMBER:** TA-14-4

**APPLICANT:** Tetherow Vacation Homes, LLC  
c/o Sharon Smith  
Bryant Lovlien & Jarvis, PC  
591 SW Mill View Way  
Bend, OR 97702

**REQUEST:** An Ordinance Amending Deschutes County Code Section 19.04.040 and Chapter 19.106, Reducing Destination Resorts Overnight Lodging Unit Availability Requirements.

**STAFF CONTACT:** Will Groves, Senior Planner

**HEARING DATE:** September 15, 2014

**I. APPLICABLE CRITERIA:**

Title 22, Deschutes County Development Procedures Ordinance

**II. BASIC FINDINGS:**

- A. PROPOSAL:** Tetherow Vacation Homes, LLC applied for a text amendment to Deschutes County Code (“DCC”) 19.04.040, Definitions and Chapter 19.106, Destination Resorts, to reduce the number of weeks individually owned overnight units must be available to the public from 45 to 38 weeks. Before 2003, Destination Resorts were required by state law to make individually owned overnight lodging units available for public rental 45 weeks per year. In 2013, the DCC Title 18 was amended to allow for the fewer weeks in the areas for which destination resorts were allowed under that title. The text amendment would allow individually owned overnight units to be available as few as 38 weeks, as allowed under ORS 197.445(b), for those areas for which destination resorts are allowed under Title 19.

Staff notified the Oregon Department of Land Conservation and Development and the City of Bend, as required under the Joint Management Agreement. The County received no comments from either agency.

The Deschutes County Planning Commission held a duly noticed hearing on July 10, 2014 and, on July 10, 2014, recommended that the Deschutes County Board of County Commissioners (“Board”) adopt the proposed changes. The Board held a public hearing on September 15, 2014 to review the proposed and make a final decision.

At the public hearing, staff presented alternative language to the applicant’s proposal to amend the text to allow more than reservation system to be the mechanism by which

overnight lodging units are available for rent by the general public. The staff's proposed language mirrors ORS 197.335(5)(b); whereas, the applicant's proposed language does not.

### III. CONCLUSIONARY FINDINGS:

#### A. CHAPTER 22.12, LEGISLATIVE PROCEDURES

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

**FINDING:** The applicant meets this criterion because the Planning Commission reviewed the proposed text amendment and a public hearing was held before the Board on September 15, 2014.

##### 2. 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:** The required notices of the September 15 Board hearing and July 10, 2014 Planning Commission hearing were published in the Bend Bulletin newspaper on May 11, 2014 and Sunday, August 31, 2014 respectively, and the notices described the proposal. Both publication dates are at least 10 days prior to each 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 was met with notice posted on the bulletin board in the lobby of the Deschutes County Community Development Department, 117 NW Lafayette, Bend.

###### ***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 amendments in question do not apply to any specific property, no individual notices were sent. Noticed was provided to the City of Bend as required under the Joint Management Agreement. No response was received. This criterion has been met.

###### ***D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.***

**FINDING:** Notice will be provided to the County public information official for wider media distribution. This criterion has been met.

3. 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 Tetherow Vacation Homes, LLC, which paid the required fee. This criterion was met.

4. 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.***

**FINDING:** This criterion was met. A public hearing was held on July 10, 2014, before the Deschutes County Planning Commission and, on July 10, 2014, the Planning Commission recommended approval of the text amendment. The Planning Commission, in response to applicant testimony, expressed concern regarding potential unintended consequences to the ongoing requirement that individually owned overnight units be designated on the subdivision plat.

Following the public hearing, Staff worked with the applicant and County Legal Counsel to determine if the goals of the plat designation of individually owned overnight units could be better met through a different mechanism. The goals of this plat designation are:

- 1) Make compliance with the overnight use requirements plainly enforceable by the County.
- 2) Put buyers, realtors, and title companies on notice of overnight requirements.

Unfortunately, the plat designation was providing low visibility to buyers, realtors, and title companies. In addition, if the resort ever wanted to “release” individually owned overnight units and replace them with hotel units, the plat designation would present a significant cost, time, and logistical barrier.

It was determined that these goals could be better met through a Conditions of Approval Agreement (CoAA) to be recorded per lot at the time of the recording of the subdivision plat. County Legal Counsel has advised that this would provide a clear basis to enforce against owners who were not complying with the overnight requirements, provide much higher visibility to buyers, realtors, and title companies, while somewhat simplifying the process for “releasing” overnight units. Staff notes that under a CoAA, the resort would still be required to go through a land use process that demonstrated how the overall resort overnight requirements were being met prior to “release” of any individually owned overnight unit. The present version of the amendment includes the CoAA language and removes the plat designation requirement. Staff updated the Planning Commission on this revised amendment on July 14, 2014.

Additionally, after the Planning Commission recommendation of approval, it was discovered that the recommended language still included the applicant’s proposal to allow multiple reservation systems to be the mechanism by which overnight lodging units are available for rent by the

general public. County Legal Counsel advised that such language does not comply with ORS 197.435(5)(b). Therefore, staff proposed that the language be changed to mirror the statute. The Board finds that is the prudent route to take with the language.

***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 proposal was not initiated by the Board. Therefore, this criterion is not applicable.

5. Section 22.12.050 Final Decision

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

**FINDING:** These findings are attached to an ordinance adopting the text amendment. Therefore, this criterion has been met.

**IV. PROPOSED TEXT AMENDMENTS:**

The proposed text amendments are detailed in the ordinance exhibits with additional text identified by underline and deleted text identified by ~~strike through~~. Below are explanations of the proposed changes.

**Title 19 - Bend Urban Growth Boundary Zoning Ordinance Amendments:**

Chapter 19.04. TITLE, PURPOSE, COMPLIANCE AND DEFINITIONS

19.04.040. Definitions.

The definitions of "Destination Resort" and "Overnight Lodgings" are amended to adopt state law. Before 2003, Destination Resorts were required by state law to make individually owned overnight lodging units available for public rental at least 45 weeks per year. The 2003 statutory amendments reduced that requirement to 38 weeks. In 2013, an applicant applied for and the County adopted a text amendment to adopt that reduction for destination resorts governed by DCC Title 18. The text amendment that is the subject of these findings would allow individually owned overnight units to be available as few as 38 weeks, as allowed under ORS 197.445(b), for destination resorts governed by DCC Title 19.

Staff notes that the version of the definition of "Overnight Lodgings" presented to the Planning Commission (PC) mistakenly had included "one or more", which is not part of ORS 197.435(5)(b). Both the PC version and a revised version that deletes "one or more" from this definition are presented to the Board

Chapter 19.106. DESTINATION RESORTS

Section 19.106.050. Requirements for Conditional Use Permit and Conceptual Master Plan Applications.



Subsection (B)(21) is amended to match a parallel section of Title 18. Some of the criteria formerly in this section have been consolidated under the proposed DCC 19.106.060(J), described below.

Section 19.106.060. Standards for Destination Resorts

A number of amendments are proposed to bring this section into compliance with ORS 197.435-467 (SITING OF DESTINATION RESORTS), and to match a parallel section governing destination resorts in DCC Title 18, that had been more recently updated. Some of the criteria pertaining to overnight lodging formerly in DCC 19.106.070 have been consolidated and updated under the proposed DCC 19.106.060(J).

As described above, the Planning Commission, in response to applicant testimony, expressed concern regarding potential unintended consequences to the ongoing requirement that individually owned overnight units be designated on the subdivision plat.

Following the public hearing, Staff worked with the applicant and County Legal Counsel to determine that a Conditions of Approval Agreement (CoAA) to be recorded per lot at the time of the recording of the subdivision plat would provide much higher visibility to buyers, realtors, and title companies. Staff notes that the version of the proposed Amendment before the Board removes the plat designation requirement and replaces it with a Conditions of Approval Agreement (CoAA).

Section 19.106.070. Approval Criteria.

Subsection (U) is moved and updated under the proposed DCC 19.106.060(J), as described above.

Section 19.106.090. Requirements for Final Master Plan.

Subsection (J) is amended to match a parallel section of Title 18. Some of the criteria formerly in this section have been consolidated under the proposed DCC 19.106.060(J), described above.

**V. CONCLUSION:**

Based on the information provided herein, The Board of County Commissioners approve of the proposed text amendments to Deschutes County Code (“DCC”) 19.04.040, Definitions and 19.106, Destination Resorts.