

Attachment A

**Chapter 18.113. DESTINATION RESORTS ZONE - DR**

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**18.113.060. 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 overnight lodging as follows:
    - 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 18.113.060(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 2:1 accommodation ratio required by DCC 18.113.060(D)(2) must be maintained at all times.
    - c. If a resort does not choose 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).
  4. At least \$ 2,333,333 of the \$7,000,000 (in 1993 dollars) total minimum investment required by DCC 18.113.060(A)(3) shall be spent on developed recreational facilities.
  5. The facilities and accommodations required by DCC 18.113.060(A)(2) through (4) must be constructed or financially assured pursuant to DCC 18.113.110 prior to closure of sales, rental or lease of any residential dwellings or lots or as allowed by DCC 18.113.060(A)(1).
- 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 or County arterial or collector roadway, as designated by the Comprehensive 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 18.124.070 shall not be considered open space;
  2. Individually-owned residential units that do not meet the definition of overnight lodging in DCC 18.04.030 shall not exceed two and one-half such units for each unit of visitor-oriented overnight

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lodging. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 38 weeks per calendar year through one or more central reservation and check-in service(s) operated by the destination resort or by a real estate property manager, as defined in ORS 696.010.

- a. The ratio applies to destination resorts which were previously approved under a different standard.
- E. Phasing. A destination resort authorized pursuant to DCC 18.113.060 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 18.113 and Goal 8.
  2. The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of DCC 18.113.060 and DCC 18.113.070.
  3. Each phase may include two or more distinct noncontiguous areas within the destination resort.
- F. Destination resorts shall not exceed a density of one and one-half dwelling units per acre including residential dwelling units and excluding visitor-oriented overnight lodging.
- G. 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 18.116 relating to solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP. In determining these standards, the Planning Director or Hearings Body shall find that the minimum specified in the CMP are adequate to satisfy the intent of the comprehensive plan relating to solar access, fire protection, vehicle access, visual management within landscape management corridors and to protect resources identified by LCDC Goal 5 which are identified in the Comprehensive Plan. At a minimum, a 100-foot setback shall be maintained from all streams and rivers. Rimrock setbacks shall be as provided in DCC Title 18. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.
  2. Exterior setbacks.
    - a. Except as otherwise specified herein, all development (including structures, site-obscuring fences of over three feet in height and changes to the natural topography of the land) shall be setback from exterior property lines as follows:
      - i. Three hundred fifty feet for commercial development including all associated parking areas;
      - ii. Two hundred fifty feet for multi-family development and visitor-oriented accommodations (except for single-family residences) including all associated parking areas;
      - iii. One hundred fifty feet for above-grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii);
      - iv. One hundred feet for roads;
      - v. Fifty feet for golf courses; and
      - vi. Fifty feet for jogging trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands.
    - b. Notwithstanding DCC 18.113.060(G)(2)(a)(iii), above-grade development other than that listed in DCC 18.113.060(G)(2)(a)(i) and (ii) shall be set back 250 feet in circumstances where state highways coincide with exterior property lines.
    - c. The setbacks of DCC 18.113.060 shall not apply to entry roadways and signs.
- H. Floodplain requirements. The floodplain zone (FP) requirements of DCC 18.96 shall apply to all developed portions of a destination resort in an FP Zone in addition to any applicable criteria of DCC 18.113. Except for floodplain areas which have been granted an exception to LCDC goals 3 and 4, floodplain zones shall not be considered part of a destination resort when determining compliance with the following standards;

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1. One hundred sixty acre minimum site;
2. Density of development;
3. Open space requirements.

A conservation easement as described in DCC Title 18 shall be conveyed to the County for all areas within a floodplain which are part of a destination resort.

- I. The Landscape Management Combining Zone (LM) requirements of DCC 18.84 shall apply to destination resorts where applicable.
- J. 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 18.
- K. Time-share units not included in the overnight lodging calculations shall be subject to approval under the conditional use criteria set forth in DCC 18.128. 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 18.128.
- L. The overnight lodging criteria shall be met, including the 150-unit minimum and the 2-1/2 to 1 ratio set forth in DCC 18.113.060(D)(2).
  1. Failure of the approved destination resort to comply with the requirements in DCC 18.113.060(L)(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 registry 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 18.113.060(L)(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. [For resorts for which the conceptual master plan was originally approved on or after January 1, 2001](#), 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 18.113;

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- iv. Documentation showing that these units were available for rental as required.
  - e. For resorts for which the conceptual master plan was originally approved before January 1, 2001, the following information on each individually owned residential unit counted as overnight lodging.
    - i. For those units directly managed by the resort developer or operator.
      - 1. Who the owner or owners have been over the last year;
      - 2. How many nights out of the year the unit was available for rent;
      - 3. How many nights out of the year the unit was rented out as an overnight lodging facility under DCC 18.113;
      - 4. Documentation showing that these units were available for rent as required.
    - ii. For all other units.
      - 1. Address of the unit;
      - 2. Name of the unit owner(s);
      - 3. Schedule of rental availability for the prior year. The schedule of rental availability shall be based upon monthly printouts of the availability calendars posted on-line by the unit owner or the unit owner's agent.
  - f. This information shall be public record subject to ~~ORS 192.502(47)~~ the non-disclosure provisions in ORS Chapter 192.
- 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 central office as described in DCC 18.113.060(L)(2) and (3).
  - 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 18.113.060(D)(2);
    - b. Documentation on all individually-owned residential units counted as overnight lodging, including all of the following:
      - i. Designation on the plat of any individually-owned units that are going to be counted as overnight lodging;
      - ii. Deed restrictions 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 and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
      - iii. 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 and check-in service operated by the resort or by a real estate property manager, as defined in ORS 696.010;
      - iv. A provision in the resort CC&R's that all property owners within the resort recognize that failure to meet the conditions in DCC 18.113.060(L)(6)(b)(iii) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County;
      - v. Inclusion of language in any rental contract between the owner of an individually-owned residential unit designated as an overnight lodging unit and any central reservation and check-in service or real estate property manager requiring that such unit be available for rental at least 38 weeks each year through a central reservation and check-in 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 18.113.060(L)(6)(b)(v) is a violation of Deschutes County Code and subject to code enforcement proceedings by the County.

7. Compliance Fee.

**Comment [PG1]:** Friendly amendment by staff to correct statutory changes since the adoption of the County Code provisions.

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- a. In the event that a resort that was originally approved before January 1, 2001 fails to report compliance with the 2.5:1 ratio in a calendar year as reported in accordance with 18.113.060(L)(3)(e), the remedy shall be that such resort shall pay a compliance fee due not later than April 15 of the year following the year in which the shortfall occurred.
- b. The compliance fee will be calculated as follows:
  - i. First, by calculating the average per unit transient lodging tax paid by the resort the prior calendar year by dividing the total amount paid by the resort in transient lodging taxes for the prior calendar year by the **sum of the** number of overnight units **managed by the resort** for which the resort paid transient lodging taxes that same year **and the number of timeshare units;**
  - ii. Second, by multiplying that average per unit transient lodging tax amount by the number of additional overnight lodging units that would have been necessary to comply with the 2.5:1 ratio for the applicable calendar year.
- c. If the Resort were to apply to create more residential lots, the Resort may not apply the compliance fee to meet the 2.5:1 ratio of individually-owned residential units to overnight lodging units per DCC 18.113.060(D)(2) and will have to demonstrate compliance per the new reporting methods or construct more overnight lodging units in order to comply with the 2.5:1 ratio.

(Ord. 2015-0xx §x, 2015; Ord. 2013-008 §2, 2013; Ord. 2007-05 §2, 2007; Ord. 92-004 §13, 1992)

Comment [PG2]: Suggested revisions are in bold