

Chapter 18.90. SENSITIVE BIRD AND MAMMAL HABITAT COMBINING ZONE - SBMH

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18.90.010. Purpose.

The purpose of the Sensitive Bird and Mammal Combining Zone is to insure that sensitive habitat areas identified in the County's Goal 5 sensitive bird and mammal inventory as critical for the survival of the northern bald eagle, great blue heron, golden eagle, prairie falcon, osprey, great grey owl, sage grouse, and the Townsend's big-eared bat are protected from the effects of conflicting uses or activities which are not subject to the Forest Practices Act. This objective shall be achieved by implementation of the decision resulting from the economic, social, environmental and energy analysis (ESEE) for each inventoried sensitive habitat area.

(Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.020. Definition of Sensitive Habitat Area.

- A. The sensitive habitat area is the area identified in the Deschutes County Comprehensive Plan Resource Element inventory and site specific ESEE for each sensitive bird or mammal site. The sensitive habitat area to be protected by the provisions of DCC 18.90 is defined as the area:
1. Within a radius of 1,320 feet of a golden eagle, bald eagle, prairie falcon nest, sage grouse lek, or a Townsend's big-eared bat hibernating or nursery site.
 2. Within a radius of 300 feet of a great blue heron rookery or osprey nest.
 3. Within a radius of 900 feet of a great grey owl nest site.
- B. Inventoried sensitive bird or mammal sites located on federal land are not subject to the provisions of DCC 18.90 unless the sensitive habitat area identified in DCC 18.90.020(A)(1) extends onto nonfederal land.

(Ord. 94-005 §1, 1994; Ord. 93-043 §14, 1993; Ord. 92-042 §2, 1992)

18.90.030. Limitations and Uses Permitted.

- A. Uses permitted in the underlying zone(s) are permitted or conditionally permitted in the Sensitive Bird and Mammal Combining Zone subject to the additional procedure and requirements of DCC 18.90.040 and the provisions of the ESEE decision. The Sensitive Bird and Mammal Habitat Combining Zone does not regulate or prohibit forest practices subject to ORS 527.610 to 527.770 and the rules adopted pursuant thereto; or to farm practices as defined by ORS 30.930(2).
- B. When there is a conflict between the site specific ESEE analysis and the provisions of DCC Title 18, the site-specific ESEE analysis shall control.

(Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.040. Applicability.

Review under DCC 18.90 shall be triggered by the following proposals occurring within a sensitive habitat area, as defined in DCC 18.90.020:

- A. An application for a building permit for a new structure or addition to an existing structure;

- B. Land divisions creating new lots or parcels within the sensitive habitat area;
- C. An application for a conditional use permit; or
- D. An application for site plan approval.

(Ord. 94-005 §1, 1994; Ord. 92-042 §2, 1992)

18.90.050. Site Plan Review Requirement.

- A. For those proposals identified in DCC 18.90.040 to be sited within an inventoried sensitive habitat area, as defined under DCC 18.90.020, a site plan shall be prepared in accordance with the requirements of DCC 18.90.050. The site plan shall be approved prior to issuance of a building permit, land division, conditional use permit or site plan identified in DCC 18.90.040.
- B. The site plan application shall provide the following information:
 - 1. A plot plan showing the location of all development including existing and proposed roads, driveways and structures.
 - 2. Description of operating characteristics of the proposed use including times when activity within the sensitive habitat area would generate noise, dust, vibration, lights, traffic or be visible from the nest, lek, rookery or hibernation site.
 - 3. Timing of construction activities including grading or filling land, hauling materials and building.
 - 4. Description of existing vegetation and vegetation to be removed for the proposed development.
- C. The County shall submit a copy of the site plan to the Oregon Department of Fish and Wildlife for comment. ODFW shall have 20 days from the date the site plan is mailed to submit written comments to the County.
- D. Based upon the record, and evaluation of the proposal based on the criteria in DCC 18.90.060, and conformance with the ESEE analysis for the site contained in the Resource Element of the Comprehensive Plan, the County shall approve or reject the site plan. In lieu of rejection of the site plan, the County may allow the applicant to revise the site plan if the applicant has not met the standards for approval. Applicant shall waive the 120-day time limit if it chooses to revise the site plan.
- E. Approval of a site plan under DCC 18.90.050 shall be conditioned upon applicant's implementation of the plan.

(Ord. 95-075 §1, 1995; Ord. 94-005 §1, 1994; Ord. 93-043 §14B, 1993; Ord. 92-042 §2, 1992)

18.90.060. Site Plan Review Criteria.

Approval of site plan shall be based on the following criteria:

- A. The site plan shall consider the biology of the identified sensitive species, nesting trees, critical nesting periods, roosting sites and buffer areas. Based on the biology of the species and the characteristics of the site, the site plan shall provide protection that will prevent destruction of the subject nesting site, lek, hibernation site or rookery and will, to a reasonable certainty, avoid causing the site to be abandoned.
- B. Development activities, including grading and fill, mining, construction, or activities generating noise or dust within the sensitive habitat area shall be prohibited during the nesting, strutting or hibernation season identified in the site specific ESEE analysis and decision for each habitat site. An exception to this standard may be made if the Oregon Department of Fish and Wildlife determines in writing that the nest, lek or rookery is not active and will not become active during the proposed construction period or if the sensitive birds have fledged. Construction activities within an enclosed structure may be conducted during the nesting, strutting or hibernation season. Construction activities necessary to repair an existing septic system or to replace or repair a structure destroyed or damaged by fire or other natural causes may be conducted during the nesting, strutting or hibernation season.
- C. New roads, driveways or public trails shall be located at the greatest distance possible from the nest, lek, rookery or hibernation site unless topographic or vegetation or structural features will provide greater visual and/or noise buffer from the nest, lek, rookery or hibernation site.

- D. Existing vegetation or other landscape features which are located on the subject property and which obscure the view of the nest, rookery, lek or hibernation site from the proposed development, shall be preserved and maintained. A restrictive covenant to preserve and maintain vegetation shall be required when specified in the ESEE for the site.
- E. No partitions or subdivisions shall be permitted which would force location of a dwelling or other structure, not otherwise permitted by the site specific ESEE, within the designated sensitive habitat area.
- F. All exterior lighting, including security lighting shall be sited and shielded so that the light is directed downward and does not shine on the subject nest, rookery, lek or hibernation site.
- G. The site plan shall conform with the requirements of the ESEE decision for the subject sensitive bird or mammal site contained in the Resource Element of the Deschutes County Comprehensive plan.
(Ord. 94-005 §1, 1994)

(Zoning Map amended by Ord. 94-021 §1, 1994)